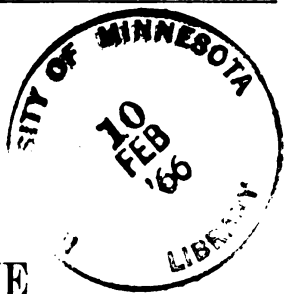


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SPECIAL INQUIRY ON INVASION OF PRIVACY

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
EIGHTY-NINTH CONGRESS
FIRST SESSION



JUNE 2, 3, 4, 7, 23, AND SEPTEMBER 23, 1965

Printed for the use of the
Committee on Government Operations



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Clarence J. Brown, Ohio, deceased August 23, 1965.

Delbert L. Latta, Ohio, resigned from committee August 31, 1965.

Robert Dole, Kansas, came to committee August 31, 1965.

Clarence J. Brown, Jr., Ohio, came to committee January 12, 1966.

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SPECIAL INQUIRY ON INVASION OF PRIVACY

WEDNESDAY, JUNE 2, 1965

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:10 p.m., in room 2203, Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman of the subcommittee) presiding.

Present: Representative Cornelius E. Gallagher, Benjamin S. Rosenthal, and Frank J. Horton.

Also present: Norman G. Cornish, chief of special inquiry; Miles Q. Romney, associate general counsel, Committee on Government Operations; James A. Lanigan, general counsel, Committee on Government Operations; and Raymond T. Collins, minority professional staff.

Mr. GALLAGHER. I would like to call this subcommittee to order.

I wish to welcome the witnesses and the people who are here today and make an opening statement. And then an opening statement will be made by Mr. Rosenthal and Mr. Horton, my colleagues of this special inquiry.

The hearings beginning today are part of a special inquiry by the Committee on Government Operations of the U.S. House of Representatives. Among the duties of that committee is studying the operation of the activities of the Federal Government at all levels in order to determine whether such activities are being conducted economically, efficiently, and in compliance with law.

Toward the end of the 88th Congress, the chairman of the Committee on Government Operations, the Honorable William L. Dawson, authorized a special inquiry into the investigative activities of Federal civilian agencies.

The need for such an inquiry had become apparent because of a large body of evidence that certain activities and operations of Federal agencies were being carried out concerning which serious questions could be raised. Were they authorized by law? Were they in consonance with basic constitutional principles? How much Federal money was being spent in carrying out these operations?

The basic principles involved in these questions can be conveniently wrapped up in the concept—the individual right of privacy. Of course, there can be no right of absolute privacy. However, all persons and their governments need to be alert to maintain the right of privacy to the maximum extent consistent with the public good. The Federal Government should take the lead to show by example that it recognizes the vital importance of protecting this right. Therefore, the committee felt that a study should be made of the operations

of Federal Government agencies with a view to seeing whether their responsibilities are being discharged in a manner which provides optimum protection of this right.

As FBI Director J. Edgar Hoover stated so well last December:

We must demonstrate that the freedoms Americans cherish so highly are strengthened whenever law enforcement asserts itself not only in crime and subversion but also against any invasion upon the rights and dignity of all the people.

At the end of the 88th Congress, this special inquiry had developed information on several specific operations of Federal Government agencies of sufficient importance that it was felt that committee hearings were needed to complete the picture. The purpose of this hearing today and future hearings is to elicit facts and informed opinion for the record to complete the committee's study of the particular subjects which had been partially developed during the last Congress and to permit the committee to make findings, draw conclusions, and submit recommendations.

The matter of protection of the individual's right to privacy and the Government's responsibility therein is one with which I am personally deeply concerned. I, therefore, wish to take this opportunity to present some of my own thoughts, although I realize that as the record is made more nearly complete and further study given to it, compelling arguments may be adduced which could cause modification of some of these views. I will, naturally, keep an open mind.

The right to privacy has been under such strong attack in recent years that the American people are now waking up to the fact action must be taken to restore life to the fourth amendment to the Constitution, or the freedom it gives may be lost forever.

During World War II and the Korean conflict, most Americans were willing to set aside objections to Government intrusion into their lives in the interest of combating the totalitarian threats of fascism and communism.

But security consciousness has become such a part of our way of life that it now goes far beyond the original effort to ferret out subversives and protect the Nation's military secrets. The demands to invade the privacy of our citizens have multiplied over the years and we find examples of such prying in almost every facet of our lives.

Wiretapping has been a problem for years and continues to be. The discredited lie detector has become a tool of industry as well as government. The suitability check, once mainly the concern of sensitive Government agencies, has become an accepted employment practice in many private companies. Advancements in electronics have given new weapons to snoopers of all kinds who feel they must have an intimate look at the innermost secrets of our people. Their motivations vary and may even be good, but dark dangers lurk in their conviction that somehow they have the absolute right to know these things. Now the magic of computers is helping them gather such a wealth of information from such a variety of sources that all of us may someday stand psychologically naked.

Today man's home or castle, his traditional bastion of privacy, is in danger of becoming a fishbowl, no longer so well protected from prying eyes and ears. Man's mind—the private vault of his ideas, opinions, and thoughts—is more than ever under psychological and electronic assault.

Some say that we have ourselves to blame, if through widespread dishonesty and thievery we have compelled the investigative agencies of Government and industry to resort to spying techniques and electronic watchdogs.

There is something about a detection mirror in a supermarket or a department store, put there to guard against shoplifting, that casts a shadow over our morality. Industry and business suffer tremendous losses annually through thievery. They argue they have a right to protect their property.

But the privacy of man's home and person is frequently and more effectively being invaded through the use of instruments much more sophisticated than a simple detection mirror. Cash a check and your photograph is snapped; enter an apartment house elevator or corridor and you may be on closed-circuit television; carry on a conversation in your home and it may be recorded two blocks away; phone a Government agency and in many cases your words are recorded.

Private companies sometimes spy on each other to learn trade secrets and other valuable information. Formal classes are even given on how to thwart industrial espionage.

Thus the techniques and gadgets that for so many years were associated with international cloak-and-dagger operators like Mata Hari are widely used today, not only by the police and Government investigators, but by respectable businessmen and untold numbers of private investigative agencies.

Snooping devices have even entered the mass market. They are advertised in the mail order sections of major newspapers and magazines, and can even be purchased with a Diner's Club card. These advertisements, in some cases, gleefully invite the public to join in the "great game" of snooping on your neighbors, your friends, and others. Sometimes the sales talk is directed to children.

It is now possible for an ordinary law-abiding American citizen to be under the surveillance of snoopers from the moment he gets up in the morning until the moment he goes to bed at night and even then he may not be able to snore in private. He probably is not even aware of it, for the snoopers rarely give any warning. That would defeat their purpose.

We have become a nation of snoopers—public and private. For many years, we grew increasingly callous about this disturbing development in American society. But there are large cracks now appearing in that callousness. The crust became too heavy. I believe the American people want to break through that shell. And perhaps we can. There is a new mood in Congress—a new mood in the Nation—which compels attention.

I believe that 1965 may well be the year of the libertarians, a year in which America swings the pendulum back to its former great emphasis on individual rights, especially those guaranteed to us by the Constitution. The civil rights law is now giving new life to rights which have been dormant in the field of racial matters. I see no reason why we should not revitalize man's right to privacy at the same time.

Justice Brandeis, in his famous dissent in the *Olmstead* case in 1928, expressed the view which I believe should guide our consideration of problems relating to invasion of privacy. He said:

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect * * *. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment.

The fourth amendment to the Constitution was written as the result of the American Revolution against warrants and writs issued by King George which often gave his officers an excuse to search anyone, anywhere, any time. Even then an English Chief Justice—Pratt, later Lord Camden—in commenting upon such a search conducted against John Wilkes, said:

To enter a man's house by virtue of a nameless warrant, in order to procure evidences, is worse than the Spanish Inquisition—a law under which no Englishman would wish to live an hour.

To me, there is absolutely no difference between this and the electronic devices which are currently used to search a man's home, office, hotel room, or other private place to find out things about him which he may not want others to know.

It has been argued, principally by law enforcement authorities, that these electronic devices help greatly to bring criminals and other wrongdoers to justice. But they have forgotten that the Bill of Rights was not written for or by the king's men.

The framers of our Constitution required that warrants could be issued only on probable cause and must specify the place to be searched and persons or things to be seized. Yet, the king's men of today—and others—are conducting such searches without the benefit of any warrant, much less the type surrounded by safeguards required in the Constitution.

Our courts, unfortunately, have been a party to this. They have been reluctant to render decisions which might make the task of the law enforcement officer more difficult in dealing with criminals.

But Justice Holmes had something to say on that subject long ago which should still ring true today. He said:

It is desirable that criminals should be detected, and to that end all available evidence should be used. It is also desirable that the Government should not itself foster and pay for other crimes, when they are the means by which the evidence is to be obtained * * *. We have to choose, and for my part, I think it a less evil that some criminals should escape than that the Government play an ignoble part.

Congress must examine some of the marvels of electronics that have been added to the snooper arsenal and the threat they constitute to freedom. There are now instruments which can pick up a conversation through an office window on the opposite side of a busy street. There are electronic devices so sensitive they can pick up and record the voices of people talking 300 yards away. That's the length of three football fields. Experiments are now being conducted to perfect other devices making it possible to overhear everything said in a room without ever entering it or even going near it.

Every day, thousands of cameras and listening devices are recording the conversations and actions of American citizens. They are installed in businesses, hotel rooms, stores, offices, apartment houses, schools, and even private homes across the country.

And snooping is not confined to electronic gadgets by any means.

The Post Office, at the request of a Federal, State, or local investigative agency, can and does put a "mail cover" on letters sent to a home or office. This means that the return addresses are copied down before the mail is delivered so that somewhere there is a record of who is writing to that person.

In response to an inquiry by our special inquiry, the Chief, U.S. Postal Inspector, Henry B. Montague, reported that 619 such "mail covers" were in effect on a single day. The mail recipients had no idea such a check was being made.

The "mail cover" has never been directly passed upon by the Supreme Court of the United States. Nor is there any statute specifically authorizing such a practice.

I believe the present procedure by the Post Office is shocking and is the type of Government activity which normally would be found in a police state. Congress should pass a law requiring the use of a warrant or court order in such cases. In this manner, the Constitution would be upheld and yet law enforcement authorities would not be deprived of a useful weapon in their fight against crime.

When a person puts a letter in the mailbox he believes that it will be confidential, including the return address. The only purpose of the return address is to make certain that the letter comes back to the original sender if it cannot be delivered. It is there for no other purpose and should be considered a part of a person's personal papers just as much as the contents of the letter itself.

Your Federal tax return is supposed to be confidential, but you're wrong if you think you and your friendly Internal Revenue agent are the only ones who ever look at it.

Every Federal agency and every State as well as several committees of the Congress can ask to examine your return. Sometimes they do.

They are supposed to look at it only in the line of duty and follow a rigid procedure designed to keep the contents confidential. But there have been a number of charges that this confidence has been violated.

There have even been allegations that Federal investigative agencies sometimes snoop through the trash that people leave outside the back door of their homes. It is said that much valuable information can be gained from examining the torn up letters, old bills, canceled checks, medicine bottles, and empty cans which are normally found in trash barrels.

If you think snooping is limited primarily to criminals and possible enemy spies, you're sadly mistaken.

For example, take the latest farm census questionnaire. For the first time, farmers were asked last year to detail their outside income, including the amounts they receive from social security, the Veterans' Administration, dividends and interest and other sources. They also were required to submit this information for everyone living in the farmhouse, including their own families and hired hands. One Pennsylvania farmer wrote me that he considered this to be an invasion of his privacy and information far beyond the needs of the farm census. I agree with him.

Then there is the matter of psychological or personality testing of Government employees and job applicants by Federal agencies. Many Federal workers are subjected to extensive tests on their sex

life, family situations, religion, personal habits, childhood, and other matters.

The fourth amendment was designed to protect our people from unreasonable search and seizure. Yet today our Government is engaged in a much more insidious form of search than going into someone's home or through personal papers. We are now searching their minds, trying to pry out the most hidden and intimate thoughts.

But not all of the news concerning invasion of privacy is bad. One heartening development was the order by Postmaster General John A. Gronouski to discontinue the "peepholes" in the men's washrooms of some 5,000 post offices.

The Postmaster General said the peepholes originally were installed to investigate stealing from the mails by postal workers, but he came to the conclusion that the washroom lookouts are "an unfortunate invasion of privacy." Mr. Gronouski should be commended for this action.

Now I would suggest that the District of Columbia and other cities around the country seriously consider the abandonment of peepholes which they have built into public restrooms in order to catch homosexuals. More frequent checking by uniformed officers or the employment of attendants would accomplish the same purpose without invading anyone's privacy and at the same time possibly prevent activities before they become crimes.

There are a number of things which Government can do by simple administrative action to insure a greater right of privacy for many citizens. One of these involves the security clearance forms which must be filled out by employees of private companies doing classified work under defense contracts. As it stands now, these employees must fill out an extensive security clearance form which contains several questions of a highly personal nature.

This special inquiry received a complaint from a South Carolina engineer, who was handed such a form by his employer and told to fill it out and return it to him. This citizen said he had no objection to answering all of the questions completely and accurately if the form was sent directly to a Federal security agency. However, he did object if the form had to go through the employer on its way to the security agency.

This man had adopted another religion and legally changed his name. He did not feel that he should have to make known to his employer this fact, especially when it was not included as a question on his original employment form with the company.

He also did not want to list the names of his relatives who had the same previous name as his own. In addition, he saw no reason why the employer should know to which organizations he had belonged during his lifetime. He believed these disclosures to his employer might hurt his chances for promotion and even adversely affect his personal relationships at the company.

This man's attitude is typical of many Americans. Privacy to them is a very relative thing. There are things which they would tell their best friends but would not tell their wives. There are things which they might tell a fellow employee they would not tell their employer. And of course, the opposite would be true. There are things they would tell their wives but not their best friends. There are things they might tell their employer but not their fellow employees.

I believe the Government should do everything possible to help preserve the right of each individual to decide what he wants to keep private. He should not be put in the position of being forced to give information which may be no one's business other than himself, and those persons in whom he may decide to share a confidence.

Snooping affects not only American citizens in this country. Its victims sometimes include exiles and citizens of other countries visiting the United States. For example, there have been allegations that private American detective agencies have been hired by some foreign governments to keep a close watch on nationals and on former nationals of those nations while they are within our borders.

In one instance, it has been charged that the dictatorship of Francois Duvalier in Haiti has contracted for such questionable services. It was alleged that the information obtained by these detective agencies could become dossiers at a later time for the persecution and prosecution of persons returning to Haiti or their families.

If these charges are true, then some private detective agencies are acting as a hired American gestapo. Reforms in this area should be considered. Perhaps they could be accomplished by changes in the Foreign Agents Registration Act and other legislation.

This special inquiry will go into a number of invasion-of-privacy matters related to the efficiency and economy of certain investigative and data-gathering activities of the Federal Government.

They include psychological testing of Federal employees and job applicants, electronic eavesdropping, mail covers, trash snooping, peepholes in Government buildings, the farm census questionnaire, and whether confidentiality is properly guarded in income-tax returns and Federal investigative and employment files. Because of the nature of some of the testimony we will receive, I am requesting that all witnesses be sworn before appearing.

Here are examples of some of the questions that concern us in this inquiry: Are there Government activities which should be eliminated with resultant savings to the U.S. taxpayer? Have Federal agencies overstepped their legal and constitutional authority in some of their activities? Are unauthorized or unnecessary expenditures being made? What effect is Government invasion of privacy having on American society? What problems are involved in individual rights versus Government responsibilities?

In my opinion there appears to be a need for a great deal of new legislation regarding many aspects of invasion of privacy. There may be a pressing need for some sort of control over the manufacture, distribution, and sale of electronic devices and other gadgets used for snooping purposes, similar to the slot machine laws.

Perhaps there is a need for an amendment to the Civil Rights Act itself, making such electronic snooping a violation of that law. Certainly, some bill needs to be passed which will make it mandatory for Federal agencies to give up their snooping devices and activities. It may be wise to start with the nonsensitive Government agencies first in this regard, but at least this step should be taken.

I believe that once the Congress begins to take action the States will be encouraged to pass laws on areas of invasion of privacy outside Federal jurisdiction. But all of this may not be enough. A new constitutional amendment may be required to build a stronger wall.

Perhaps then, the famous line in George Orwell's book, "1984," will never come true in America.

You had to live—did live, from habit that became instinct—in the assumption that every sound you made was overheard * * *.

The Chair recognizes Mr. Horton.

Mr. HORTON. Mr. Chairman, I want to congratulate you on your statement. I think it is a blueprint for the action of this special inquiry. It is very succinct in summing up the problem that is before us.

Mr. Chairman, it is an honor to have been selected to serve with you and our friend, Mr. Rosenthal, on this inquiry panel.

I believe our examination of certain investigative processes and procedures of the Federal Government, particularly as they bear on possible violations of the Constitution's guarantees of individual rights, is especially timely. There is mounting evidence all around us of snooping into the lives and affairs of American citizens to a frightening degree.

I believe there are many examples of officially sanctioned privacy violations. Further, technological advances in the science of snooping have progressed so rapidly that intensive surveillance often is possible without the slightest knowledge of the subject.

There is one critical area with which I know our special inquiry plans to concern itself. That takes up the investigation of those citizens either applying for or already employed by the Federal Government.

We accept without question that our Nation is involved in many pursuits that cannot be discussed in any detail for to do so is to compromise precious strategic values and national security. Therefore, those who are employed to deal with these matters must be trustworthy to an unquestioned extent. Establishing this standard often involves a personal evaluation which lays bare every facet of the individual's character. Yet, it is essential.

However, most Federal employment is not in these highly classified or supersecret areas. Most civil servants are employed in occupations that are comparable to private industry or the professions of this country. They may—and do—have special responsibilities, because public office is a public trust, but they should not be subjected to the critical examination many agencies are using.

My specific references are to personality tests which ask scores of embarrassing questions about the personal habits of the subject. My references also are to mail covers, wastebasket snooping, telephone taps, and surveillance. Many Federal employees work under situations of constant harassment from one-way mirrors in washrooms and peepholes in work areas.

These are areas demanding our attention. Let's look into these practices and quiz their originators. Let's find out what if anything in the form of better Government comes from this peering and probing, this snooping and surveillance.

Throughout our special inquiry, I am sure, we will be mindful of Madison's statement about the great inquiry which was the beginning of democracy: that we are securing the public good and private rights. Mr. Chairman, I believe that among these private rights is the right to be private.

Mr. GALLAGHER. Thank you very much, Mr. Horton, for your remarks, and your gracious words.

The Chair recognizes Mr. Rosenthal.

Mr. ROSENTHAL. Thank you, Mr. Chairman. I think the record ought to indicate that all of us are very grateful to Chairman Dawson for establishing this special inquiry. His interest in this subject of privacy and constitutional rights of all of our citizens has been known by all Members of Congress for a long time, and certainly he has been a leader in the fight for the preservation of individual rights under our Constitution.

I also want to express my own personal debt of gratitude to the general counsel of the committee, Mr. Lanigan, who is sitting with us, and who, as you know, Mr. Chairman, has helped us in establishing this special inquiry and has been very, very helpful and given considerable guidance to us as to where and how this inquiry should proceed.

Without offering or making any prejudgments as to what the final conclusions of this special body will be, Mr. Chairman, I might suggest to those who are concerned that my review of the preliminary information that we have in the committee files leads me to certain conclusions.

The first one is that this country is presently living under a serious threat—the threat that the civil liberties of all our citizens may be eroded by new habits and procedures for invading personal privacy. Indeed, it can fairly be said that contemporary American society is a society under surveillance, subject to the subtle machinery of snooping, and an increasing disrespect for the inalienable right of privacy.

The job of this special inquiry, as I see it, is to investigate the extent to which the invasion of privacy is becoming a national habit. What is at stake is nothing less than the health of our democracy and the guarantees of our Constitution.

For some time now, procedures for eavesdropping on telephone conversations, examining private business records, scrutinizing mailing operations, and bugging private rooms have been in the process of development—sometimes in the name of national security, sometimes for the enforcement of criminal law, sometimes even for personal self-protection.

However acceptable this development may once have seemed in theory, it has become clear to many that the machinery of snooping is increasingly being misused in practice. And there seems to be a momentum in the practice of invading privacy.

New devices are constantly being dreamed up; counterdevices, in turn, have to be developed. And suddenly we discover that there are people in this country who are in the business of snooping, whose very job is to develop means for invading privacy.

It cannot be ignored that the largest snooper of all is the Federal Government. Insofar as the invasion of privacy has become a national habit, the Government is responsible for having established precedents and developed procedures. For that reason, the special inquiry should be most concerned with examining Federal practices in the invasion of privacy.

The excesses of this process will not be curtailed unless the public takes time to scrutinize in some detail the habits and procedures of privacy invasion. Our task is, therefore, largely one of public information. The very nature of this subject, however, restricts public knowledge.

People never know if their phones are tapped, their business records under investigation, their photos taken in secrecy. It is time that

this dangerous habit be examined in detail, before all interested citizens.

In my opinion, Mr. Chairman, the threat is too disturbing to be left unexposed.

Participating in the accolades, Mr. Chairman, I want to compliment you for your leadership and original thinking in contributing to the formation of this inquiry. I frankly am hopeful that the inquiry will make a major contribution to the American way of life. If you do that, I am going to be very proud to have served with you on this special inquiry.

Mr. GALLAGHER. I thank the gentleman from New York and I associate myself with his remarks on Chairman Dawson. Were it not for his active interest, this special inquiry would not have been formed. Chairman Dawson has been a leader in the field of civil rights and human dignity for over 40 years and certainly the creation of this group is an indication that his interest is still active and he has rendered our country a great service down through the years.

At this time the Chair would like to call as the first witness before this special inquiry, Dr. William M. Beaney, professor of politics and Cromwell professor of law at Princeton University.

Dr. Beaney is a distinguished authority on constitutional law. He has published a number of scholarly articles on this and many other subjects. He has long concerned himself with the broad problem of the question of privacy.

Dr. Beaney, in accordance with the procedures of this committee, I would ask you to be sworn.

(Whereupon, Professor William M. Beaney was duly sworn.)

TESTIMONY OF WILLIAM M. BEANEY, PROFESSOR OF POLITICS, AND CROMWELL PROFESSOR OF LAW, PRINCETON UNIVERSITY

Mr. GALLAGHER. Doctor, do you have a prepared statement or an opening statement?

Mr. BEANEY. I submitted a statement, Mr. Chairman, and unless it is requested that I read it, I prefer merely to summarize the conclusions I reached there and ask that it be incorporated by reference, if that is permissible.

Mr. GALLAGHER. Yes, that is permissible. The statement will become part of the record.

(The prepared text follows:)

STATEMENT OF WILLIAM M. BEANEY, PROFESSOR OF POLITICS, AND CROMWELL PROFESSOR OF LAW, PRINCETON UNIVERSITY

Each generation of Americans has faced new problems arising from threats to one or more of the liberties that, taken together, make us a free people. Changing conditions within our society, new demands and necessities of our people, new programs of government and our private institutions may raise serious questions concerning the proper balance between a claim of freedom by an individual or group and the claim of government or private associations to act in various ways that impinge on freedom claims.

We should not think of these clashes of interests or claims as a battle between the forces of good and those of evil. While "freedom" as a separate value should always hold high rank in our hierarchy of values, we expect government to protect the freedom of each of us against other individuals and groups which necessarily raises issues of resolving conflicting claims as in the field of law enforcement, and in addition, we seek from our government the promotion of a high degree of social

and economic well-being, which compels government to seek information to guide legislative and administrative action.

In an increasingly interdependent society, devoted to the scientific solution to many human as well as material problems, governmental agencies and a wide variety of nongovernmental institutions seek more and more information about human activity, attitudes, and demands.

In an age marked by specialization in virtually every field, the use of larger and larger units for carrying on economic, political, and social activities, it becomes a natural way of thought to see the individual human as a number, a file, a dossier, whose life and personality are captured by the volume of collected data.

The apparent increase in crime and use of modern technology by criminals has been countered by police use of modern means of surveillance and crime solution. Threats to national security have resulted in the widespread employment of security checks for Americans holding certain governmental, or sensitive private positions.

Modern business and other organizations go to great lengths to insure that their recruits are well fitted for the positions they will fulfill, and in some instances maintain a close watch on their private and organizational lives in the interests of the institution.

Even in the absence of the kind of empirical data which would permit accurate assessment of the adverse effect of these developments on individual and group privacy, there is sufficient information available to justify concern and to underscore the value of inquiries, such as that presently being undertaken by this committee, into the precise nature and extent of invasions of privacy in public and private life.

In many ways, the term "privacy" is an unfortunate way of capsulizing an effort to define limits on the intervention of governmental and nongovernmental actions into the affairs of individual citizens or their lawful associations. There is a coldness, an antiseptic quality associated with the term that fails to convey its importance as an individual and social value.

I think that the great Justice Brandeis came closest to identifying the true nature of privacy as a "right" in his famous Harvard Law Review article, written in collaboration with Charles Warren, published in 1890 ("The Right to Privacy," 4 Harvard Law Review (1890)), and in his powerful dissent in the *Olmstead* case in 1928 (*Olmstead v. United States*, 277 U.S. 438).

In his article, Brandeis thought that the prying of scandalmongering newspapers into the private social life of prominent citizens violated their right to privacy.

Although the authors seem in retrospect to have given insufficient weight to the values and traditions that surround "freedom of press," their sensitive and imaginative perception of the threats to privacy arising from "the intensity and complexity of modern life" and their call for legal protection through legislation and court action mark the beginning of serious awareness of the problem. The tort of privacy has now been recognized in a majority of States and there have been over 350 decided cases involving the civil wrong of "invasion of privacy."

But of greater significance, in my opinion, is the slow, halting evolution of a constitutional "right to privacy" stimulated by Brandeis' prophetic opinion in dissent in *Olmstead*.

You will recall that this case arose out of the Federal Government's efforts to convict a large-scale bootlegger in the State of Washington, and specifically, the use of evidence obtained by the tapping of his telephone line, this in a State which had a law forbidding wiretapping.

By a 5-to-4 vote the majority of the U.S. Supreme Court held that wiretapping was not an unreasonable search and seizure, and hence not prohibited by the fourth amendment guarantee.

While Holmes, dissenting, decried the role of the Federal authorities in the "dirty business" of breaking State law, Brandeis, dissenting, stressed what to me is clearly the proper principle in interpreting constitutional grants of power and limitations in power.

Pointing out that the Court had construed powers broadly to meet conditions unanticipated by the framers, he argued that "clauses guaranteeing to the individual protection against specific abuses of power must have a similar capacity of adaptation to a changing world" (277 U.S. 438 at 472).

Decrying the narrow, mechanical approach of the majority, Brandeis argued that the framers "recognized the significance of man's spiritual nature, of his feelings, and of his intellect * * * they sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as

against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.”

Brandeis concluded that “to protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment” (at 478).

In an article published in 1962, “The Constitutional Right to Privacy in the Supreme Court” (1962 Sup. Ct. Rev. 212) I traced the development of fourth amendment doctrines and concluded that the Supreme Court had not yet embraced the Brandeis position though several judges had expressed their agreement with Brandeis and their disapproval of the *Olmstead* holding.

I suggested in that article that the curious twisting and turning in the development of search and seizure law had obscured the purpose of the 4th amendment protection and that a more useful approach was to conceive the right to privacy as set forth by Brandeis as part of the essential liberty safeguarded against State action by the due process clause of the 14th amendment and against national action by the 5th amendment clause.

In subsequent research which is not yet completed, I have tried to show that if “freedom to travel,” is part of liberty, “the right to privacy,” a guarantee against unjustifiable intrusion into one’s thoughts, emotions, sensations—the right to be let alone unless there is a rational and important countervailing interest, can be spelled out of a combination of several clauses of the Constitution, including the 1st, the 4th, the 5th, and the 14th amendments.

And one can make a good case that a freedom from unjustifiable intrusion is central to the very notion of a constitutional order in which the importance and dignity of every individual is central, in a political system based on the concept of government derived from the consent of the governed.

But wholly apart from the constitutional basis (or assuming for the moment that there is no constitutional basis of a right to privacy), I would suggest that a government devoted to freedom and recognizing the dignity and importance of every individual should seek to safeguard all reasonable claims to privacy against private invasions, should avoid intrusive action on its own part, except where strong justification existed.

I am not suggesting a once and for all definition of the right nor is it appropriate to catalog all of the possible claims that can be made and which may deserve protection. What is required is an inventory of the activities of public and private agencies that raise privacy and dignity issues.

In each instance the justification for the intrusive action should be made explicit so that it may be evaluated, while at the same time, alternative less intrusive measures may be substituted. For in many instances, it will be found that men of good will, eager to perform their own function as efficiently as possible have simply failed to take into account the adverse effect of their actions on those affected.

Whether through the use of excessively prying items on questionnaires used by educational or other institutions, failure to maintain strict confidentiality of Government file items that may embarrass citizens, overzealous investigation of welfare recipients, or over aggressive law enforcement procedures, invasions of privacy have seemingly become part of the American scene.

The numerous new forms of intrusive surveillance through the medium of electronic eavesdropping, the use of long-range cameras and other optical equipment, and the computerized auditing of transactions, greatly enhance the ability to invade the privacy of all of us, whatever our status and activities.

The way to proceed is through a careful examination of present or potential invasions of privacy at all levels of Government, in a wide variety of private enterprises and institutions.

It is easy to compile a list of sensational acts of invasion of privacy in a Nation as large and active as ours, but a sober response to the present situation and that of the portending future requires a realistic assessment of present activities and discernible trends. This committee can take a giant step toward solution to problems that must be solved if the privacy element in our freedom is to be as meaningful in the future as we should like to believe that it has been in the past.

Mr. GALLAGHER. You may proceed.

Mr. BEANEY. I think it is a great privilege to be asked to appear before this subcommittee, which in my humble judgment is concerned with one of the acute problems facing the American people today. As I suggested, each generation of Americans has a different set of

problems to confront with respect to the liberties which each of us enjoys.

Conditions within our society change, there are new demands for various activities to be undertaken by Government, ways of conducting our economic affairs and our private institutions change, and so that which was a source of little trouble in one generation may assume great significance in another.

I think our Founding Fathers at the time of writing the Constitution did not think of privacy as being a serious problem. The whole constitutional arrangement was one intended to guarantee as wide an area of freedom as was possible.

You may recall that Hamilton and Madison, in opposing initially the inclusion of a bill of rights in the Constitution said that one of the dangers of a specific enumeration of rights was that some other rights of equal value or even greater value might not be protected by the Constitution. On the other hand, they recognized there were serious demands that certain rights be placed as amendment or a series of amendments to the Constitution, so we have our first 10 amendments, but privacy was not an acute problem because of the nature of our society.

We were a few million people, strung in a sparse way along the eastern coast. The basic activity of the country was farming and my own impression is that people who lived in rural areas generally are not terribly concerned with privacy. They are more apt to seek the comfort and friendship of others because of the distances which separate them. But my general approach has been in such writing as I have done, and that on which I am still working, is that the Constitution taken as a whole, and the 1st and the 5th and the 4th and the 14th amendments particularly spell out a safeguard for the privacy of individuals.

By privacy in this sense, I mean the freedom or the liberty to determine to what extent you will share your life, your activities, your ideas, your thoughts, and sensations with others.

Had the Founding Fathers—of course, this is a game everyone can play and one can never be so positive, but I assume that had they foreseen the developments of recent decades in this country a statement of a right to privacy would have found explicit inclusion in the Bill of Rights.

I take my theme from Brandeis in arguing that constitutional limitations or putting it more positively, the guarantee of individual rights, must be approached in the same positive rational spirit that we approached the question of the powers of the National Government or the powers of our State governments in the light of changing conditions. That is, the commerce power is something different today from what it was in 1800. And similarly, the limitations of the Bill of Rights must be adapted to the specific form which the dangers and the problems take at the present time.

It seems to me that it is in that spirit that some of our justices and some of our courts have approached this problem and I don't want to mislead you by saying at the present time the U.S. Supreme Court or the Federal or State judiciaries have adopted this position in any explicit fashion. Yet I think that, as I tried to show in my article, we are moving very much toward a position that I think the Supreme Court will take in giving to the fourth amendment the

meaning which I think it was intended to have, and which I am afraid in the *Olmstead* case the majority of the Court was unwilling to give it. That is, the fourth amendment isn't merely a protection against material invasions or the taking of tangible expressions of one's thought and mind, it is a means of protecting the right to be let alone, the right to determine what part of your life will be shared with others.

I think that a recent Supreme Court decision, even in the search and seizure field, seems to point in this direction and I would be very surprised if in the next decade or sooner that the Court doesn't accept the position which Brandeis set forth in the *Olmstead* case.

Mr. ROSENTHAL. Professor, may I interrupt for a moment?

Mr. BEANEY. Surely.

Mr. ROSENTHAL. I think most of the community and all of us concern ourselves with the main thesis, the question of how do you strike a balance between individual rights and community interest, particularly in the field of law enforcement and national security?

Mr. BEANEY. This is the great question that underlies all questions of lawmaking, I assume, that impinge on individual rights. We have had the problem with our first amendment issues as we know. Most of us do not think rights are absolute, although Mr. Justice Black has stated on several occasions that the rights of the first amendment are absolute.

What I would suggest as a brief answer to a very pressing question and a very significant question is that in striking the balance, in determining how the equation should be used and what should be the answer in the given case, is that we must make sure we get the privacy values on the other side of the scales from the side on which we place law enforcement or the desire of government for information or to know more about recruits for the military service or whatever. Too often we leap only to the obvious conclusion that the interest in law enforcement or the interest in getting information should prevail, and we tend not, I think, to put on the scales the privacy interests.

It seems to me one of the values of what your committee is doing and undertaking to do is to give us a much clearer picture, or for the first time a picture, since I don't have the data which will allow me to speak effectively to the questions that were raised with the letter that came from the chairman, that is, we must know what the practices are and what the alleged justification or claimed justification is for the governmental practice or for the practice of a business or private institution that impinges on privacy.

My argument would be, we must bring this out into the open, if there are obvious reasons for pressing on someone's privacy, we should know what those reasons are. It should be possible then for reasonable men to sit back and weigh the relative interests that are involved.

As I see it, the trends of the past 20, 30 years in this country, and to a high degree all over the world, are simply to go on unthinkingly to assume that more information about any subject is a good thing and this is understandable. If you are responsible for fulfilling some function, whether in government or universities or private business, it is always nice to have lots of data in the file. If you have to deal with other human beings, you try to find out enough about them so you can deal effectively. If you have to pass on their promotions,

you want to know what they have done and so on, but my criticism is that we have rather unthinkingly just assumed that this is a good thing, that there must be good reasons for it without stopping to cast the balance, which I think you are suggesting is desired here, when you say how do you cast the balance in law enforcement, you are getting into a very large and difficult area and it is one in which I don't profess real competence.

What I do suggest is that too often, however, law enforcement agencies have assumed that they must be able to engage in certain practices, or that they must be able to disregard State legal provisions, because otherwise the criminal goes free. Yet once they begin to observe these procedures, I think it is frequently the case, has been the case, that they do their job just as well, and maybe with additional training do it better than in the past.

What I am really saying here is that one cannot answer your very penetrating question with a broadside statement. I think we must have a weighing for each alleged intrusive action, whether by government, by other individuals, or by private parties, and see what the justification is, and then, as reasonable men, the legislative branch, and those in all walks of national life, may conclude that it is a price we must pay because of some important individual or social value, then that intrusion will be borne.

We all agree that privacy, I think, is not an absolute, and in the nature of things, cannot be. A society in which it were an absolute would be one of the deadest societies which one can imagine.

I think what we need, and that is what I suggest in my statement, is the kind of careful gathering of empirical data, constantly seeking the justification for the intrusive action, constantly asking, is there an alternative way by which the job can be done without behaving in such an intrusive way, but seldom, it seems to me, have we asked the questions in this way. That is, if we want a free society, we have to work and ask the questions that will keep us a free society.

The direction of drift is perfectly clear. You don't have to be very intelligent to see that if this drift toward more and more intrusive action by private groups and organizations of all kinds, and by Government, isn't checked, in 20 or 30 years no one will bother asking questions about privacy, and we will take it for granted that we live in a fishbowl and that we are not free men, but fish.

Mr. HORTON. Doctor, in connection with that, you have indicated that justification might be sufficient for invading privacy. Would you—

Mr. BEANEY. I don't want to leave that impression.

Mr. HORTON. Perhaps you might speak to that.

Mr. BEANEY. There may be some bits of information which are obtained at such a high price that you would simply say we don't want them at all. The purpose for which you seek the information may have some value. There may be some social value attached to it, but the price, the cost to the individual and to the society of which he is a part, is simply so great that then you would say we will get along without it, because again in looking at the effect of the invasion you simply would not for a moment condone it.

But I am speaking of the less dramatic, the less obvious kind of intrusive action.

Mr. HORTON. You are talking in essence about what you might call a gray zone, where these problems become somewhat confused or

difficult to stretch them out, but don't we have before this subcommittee instances in which there really isn't any gray zone?

The thing that I am concerned about is the matter of use of these electronic devices to snoop on people that are entitled to privacy, and I am assuming that we have a right of privacy and I am starting from that premise.

Now, the use of these snooping devices to hear what is going on in a man's private home, certainly it seems to me, is outside that gray zone. Is there any justification for that, in your judgment?

Mr. BEANEY. The justification, which is commonly cited in support of the new York State system, where by use of court orders there can be a tapping, is that if there is reasonable ground for believing that someone is engaged in criminal activity, or conspiracy, and is using the telephone as a means of implementing his criminal act, then with a judicial order there can be tapping. Personally——

Mr. HORTON. There you are in an area where there is a criminal nature involved. I am talking about the use of these snooping devices by persons that have no apparent reason other than just to find out about what a person is doing, what his private life is like.

Mr. BEANEY. It is against the law in many States. It is unlawful activity and is a frightening—I can see no justification.

Mr. HORTON. Do you think there should be a Federal law in connection with this, and if so, do you think it would be possible to draft such a law?

Mr. BEANEY. It would be an awfully difficult law to enforce; this is the problem. No matter how commendable the purpose——

Mr. HORTON. The chairman has suggested something by way of control over manufacture, distribution, and sale of electronic devices.

Mr. BEANEY. The difficulty is children in my block make these things. They are very clever today. They can buy components——

Mr. HORTON. Do we just hold up our hands and say we can't solve it? Do you have any suggestions, from your background on constitutional law?

Mr. BEANEY. One suggestion I have is that where it is made a criminal act, usually a misdemeanor and not with a very heavy fine, either, to engage in these practices, one wonders if the police, with the assistance of telephone people, could not do a better job of policing than they now do. But since the police themselves engage in so much tapping, it is a bit difficult to envisage the police running around tracking down these illegal tappers when, in so many instances, they are illegally tapping themselves. It is asking too much, it seems to me, to assume that the police are going to do this. But the advertisements appear in the yellow pages in every city in this country. Surveillance equipment and agents are available—of course, lawyers use them in marital and other cases, and we don't know, I don't know all of the different uses that are made, but it is not something that is hidden. It is very open.

I would like to see State laws and it might be possible to devise a Federal law——

Mr. HORTON. You haven't, apparently, given any thought to that?

Mr. BEANEY. No; because we always bog down on this problem of the way these things are put together, that if a man is skilled, as I understand it, if a man has any skill at all in electronics, that he can

assemble these things for rather small amounts of money, and from components which in themselves are perfectly innocent.

That is, you could get at the manufacturer and the shipment of an actual auditory device or insist on registration or something of the kind, but my guess is that then it would merely cause one additional step for any would-be tapper, and that is that he would have some electronic fellow, a technician, make him up one.

Mr. HORTON. What you are saying in essence is that, because these things are so common and so easy to assemble, the right of privacy has almost gone by the boards?

Mr. BEANEY. Yes; except to the degree that, as I say, if we could induce our police, induce our State legislatures to take this as a very serious problem—

Mr. HORTON. Do you think it is a serious problem?

Mr. BEANEY. To check more closely on the people who conduct these businesses—

Mr. HORTON. Do you think it is a serious problem, and if you think it is a serious problem, do you think it is serious enough to have congressional action?

Mr. BEANEY. I think action is required. The form of action, I am not prepared to recommend at this point. That is, I think there is a great deal that can be done through State legislation immediately. I have more difficulty envisaging effective, effective congressional legislation.

Now if you make it a Federal offense to do interstate tapping and that sort of thing, this might help. That is, one thing about all legislation, this is a truism, you can't measure the value of it only in terms of the number of actual prosecutions that will take place. That is, when you put a law of this kind on the book, it does place a stamp of immorality on the action.

I think law is important, as an educative device. And so one might conclude that as part of an overall attempt to stress the seriousness of invasions of this kind, that one might try to have a Federal and State legislation, even recognizing that enforcement and conviction might be very difficult in the case of Federal law.

Mr. GALLAGHER. Doctor, would you prefer to finish an opening statement before we get to questions?

Mr. BEANEY. Just one other point, Mr. Chairman, I think that though much I have written on this deals with the constitutional aspects, that it would be very unfortunate if we were all to become overly preoccupied in spelling out the precise nature of the constitutional right with the possibility that because the courts might not agree with our theory of what the Constitution means, that therefore another 25 or 50 years would have to go by before there would be legal protection, that is, everything that is constitutional is not necessarily good policy.

I would think that, as Mr. Horton's comment and questions suggested, that legislation may be seriously needed to deal with several of these problems without any reference to the question of whether we are, by so doing, protecting a constitutional right which has now been spelled out in the reported decisions of the courts. That is, if it is good policy, it would seem to me that is the important thing, if it helps create the kind of society that we want, that is the important thing. If it is a practice that is controllable by the Congress, if it

doesn't interfere with some legitimate function of the Federal agency, then, controls, it seems to me, are highly desirable without working to get the precise definition of a constitutional right.

I am not minimizing what I said earlier. All I am saying is that I think so often in this country, we bog down in rather involved constitutional arguments which are important, I grant, as there are very central values associated with the Constitution, but I would not think that you always must say, we are doing this because there is a constitutional right we are protecting.

I think the effort to create the kind of a political system we want, the kind of society we want, should be the dominant aims and let the courts and the lawyers struggle over the precise terminology of the right, whether this or that is in it or not over time, because that is the way it will be done legally.

There is never going to be one right to privacy, which, for once and for all, is going to exist. It will be etched out by decisions over time, as people who are oppressed by some of these practices, work up a case and the courts are called upon to decide it. So that is all I care to say in a preliminary way.

Mr. GALLAGHER. Thank you very much, doctor. In relationship to your last statement, the court decisions that we have been discussing have been in the area of criminal investigation. The *Olmstead* case certainly would fall within that category of the fourth amendment situation but the Government inquiring into an employee's privacy and other areas, such as the questionnaire type of thing, the lie detector, this is a different area. This is one of the areas that this committee is concerned with.

What are your thoughts along this line?

Mr. BEANEY. It seemed to me an argument can be made that the first and fifth amendments would be the appropriate places to look with respect to a Federal employee in this position, that is, the argument that if freedom of expression is to have any meaning, it must mean that we can keep back some things we don't care to talk about. It is the reverse and converse of it, and it is also that liberty which is guaranteed in the fifth amendment.

If you accept my analysis, privacy, one's freedom to decide what part of one's life and thought will be shared, is a liberty guaranteed to Americans, and then I think the 5th amendment would apply and similarly, the 14th amendment would apply to state action.

Mr. GALLAGHER. You say protections to the individual, do you see any constitutional authority to require this type of information as a condition precedent to employment?

Mr. BEANEY. I know of nothing in the statutes that requires or provides for such questioning. It has been my impression that these practices have generally evolved from the efforts of personnel officers and others to try and insure that a high type, a security type, a reliable type of employee is recruited into the Federal service.

I did make the suggestion in my statement, that I think the spirit in which one should approach the conflicts which have arisen between privacy claims and the actions of agencies, is not to assume that those who have utilized these intrusive measures, are evil men, any more than Brandeis did. These are people who are trying to do a good job, maybe as zealously as possible in carrying out the public interest, as they define it, but in the process, as Brandeis indicated, they lose sight of other values.

I think it is the same type of activity that characterizes some of the intrusive action in colleges and universities. This is a society now in which everyone wants to ask more and more questions of everyone else and I am afraid that I am a member of an academic band, so-called social scientists, which has helped bring this about. That is in studying human behavior, if you are to get behind theory, you have to have some data, you want hard facts, and how you get those, is either by observing, the way individuals and groups act, or you ask them questions to see what they can tell you about the way they act, and their motivation and so on. I don't think that as a group, we have been guilty of the worst intrusive behavior, but there have been some instances where people, it seems to me, have shown bad judgment or really go too far because they want to know. They want the answer and they didn't think about the privacy aspect of what they were doing.

Mr. GALLAGHER. Looking down the road, where do you see these trends taking us and is there anything that Congress can do to discourage this, or anything that the President can do, by Presidential proclamation to these agencies?

Mr. BEANEY. If I may echo the thought that was expressed in the introductory statements, which were really excellent, it seemed to me, negated any need for me to come and tell you things you already know. That is, that the Federal Government is the great exemplar.

You won't get a private institution or private individuals to think there is anything wrong with intrusive behavior if they can point to one or more Federal agencies which indulge in the very same practices. The Federal Government can be the great teacher and so I think that if, on the basis of a careful study of practices in all the agencies, and I would like you to stress good things as well as those things that might seem rather negative, then it would seem to me in various ways, either the statutes which give the agency power can be amended to prevent this, or I suspect, in many instances, the agency officials will, on their own volition, say that it is perhaps an undesirable practice, the same way that the Postmaster General recently did, which I agree is a very heartwarming action on his part.

I think we need this kind of a careful inventory of the status of privacy claims and activities that impinge on privacy in the Federal Government, and that can serve as a model for State governments, for cities, and for private investigations of all kinds. It is very difficult for private persons to do this kind of investigation, wholly apart from the resources. There is no reason why governmental agencies should—

Mr. GALLAGHER. Mr. Cornish had questions he wanted to ask.

Mr. CORNISH. Dr. Beaney, I was quite interested in your comments on the social scientist, which prompts me to ask you this question. I gather that you feel by virtue of being a social scientist, this does not give any particular license to invade privacy. I will tell you why I ask that question. Frequently we find in checking with Federal agencies on these matters, that their defense is that they are conducting some sort of study of human behavior and because it is a purely scientific purpose, they somehow feel this exempts them from the charge they are invading individual privacy. I would like to get your thoughts on that.

Mr. BEANEY. I think this is a very dangerous line of reasoning to invoke the name of science for this kind of intrusive behavior. It is

no more justified than using the need to ascertain the truth could be justified in pretrial investigations in the criminal field where they can take a person and by using every device from torture to the most refined modern psychological techniques extract statements which can probably then be verified and then perhaps we will have the truth in a criminal case.

We had said there are certain values, there are important values, that should cause us to resist this tendency. I think that truth is an important value. Again, it is a value which must always be weighed against the search to achieve other ends and other values and I see no reason why the social scientist should be exempt from the requirements to behave decently toward his fellow man. Because we are men, we are not subjects and investigators.

Mr. GALLAGHER. Doctor, with your permission, and permission of the people gathered here, we would like to take a 10-minute break to go over and perform our duty.

(Recess.)

Mr. GALLAGHER. The subcommittee will come to order.

Doctor, we would like to resume at the point we left off. Did the doctor reply?

Mr. CORNISH. To that particular question, but I had another one I wanted to pose. That is, do you think people can become conditioned to invasion of privacy? Do you feel that if these invasions of privacy continue and multiply, that eventually the American people will become conditioned to this sort of thing and cease to protest? Do you have any thoughts on this at all?

Mr. BEANEY. I am afraid my thoughts are rather obvious ones. I think certainly, they can become conditioned to accepting various forms of invasionary practices, just as we condition children to take all kinds of tests today. My children and all other schoolchildren, it seems to me, are taking tests of all kinds, not just on subject matter, but various tests to permit comparison with other people their age, and to find out what frustrates them, apart from their parents and other matters that may be disturbing them, but they get used to them.

They come home and talk about some of these tests or go to school and look at them. Parents are a little disturbed because we didn't have these tests, but children take it for granted and it is all designed to help them develop into healthy, normal citizens, but there is no reason why the American people or any other people couldn't be, it seems to me, conditioned over a time. Because what I think is so really frightening about those whole range of matters that we have been discussing here, is that very few of them are terribly dramatic in themselves.

Now, if every so often, we have an incident of wiretapping, it makes the headlines, but this is a busy country, the papers are full of interesting news every day, and after a few days, this is forgotten. So much of tapping or electronic eavesdropping is never known, and obviously no one can react to something that isn't directly observed or cannot be directly observed and I think you can go down the line to show that efforts to investigate, to get data on individuals in various walks of life, are taken for granted. The census asks for questions and the census did, I take it 30 or 40 years ago, I am not saying that the questions are in any sense improper, but there are more of them. We become conditioned to it.

Mr. ROSENTHAL. I think if I might interrupt you and refer to page 2 when you say the term "privacy" sort of defies the definition, and then you say, "there is a coldness and antiseptic quality associated with the term that fails to convey its importance as an individual in social values."

I think that is quite good, and because of that acceptance by the public, because of their inability to feel the warmth and meaning of privacy, I feel that they have, as counsel suggested, begun to accept this sort of thing. It is not the kind of thing they can put their fingers on, but they vaguely understand it.

Mr. BEANEY. I think we ought to recognize it is not a universally shared value and never will be, and there are many people who suffer from just the reverse of privacy. They don't have enough contacts with people, psychologists tell us, and with these people there should be less privacy and more human contacts and more warmth in their lives. It will vary with individuals, and with groups, but I think certainly, it is a very important value.

It is important to many people, not just to artists or creative people. It is important to all of us who have serious work to do, who regard the human being as something more than a number in the population total, and you don't have to bring in religious reasoning to justify this. It seems to me the humanists can make very persuasive argument, too. But I think it is difficult to interest many people in this topic if they have not personally suffered a loss of privacy and I find in speaking with many of my friends, who apparently don't do anything important enough to have their privacy invaded, that they frequently react initially as though this is a kind of sportive thing in our national life, something that happens to odd people, people having troubles with their marital problems, or people engaged in unusual activities and it is not something that affects the average, good citizen.

But I think already there is plenty of data to show that assumption isn't true. It is affecting more and more of us with every passing year.

Mr. ROSENTHAL. Mr. Horton?

Mr. HORTON. I am a little bit concerned, Doctor, as to where you would, as a constitutional lawyer, draw certain lines and have you thought through this so that you can give us any thoughts that you may have in this regard? Let's take on the one hand, the privacy and the right of persons to be private and recognize also, that when a person violates the law, or when there is a criminal investigation or this type of thing, that privacy has to be violated to the extent of investigation and that sort of thing.

I am not thinking now, I might say, about those who are applying for jobs with the Federal Government, but I am thinking about the mass of people who perhaps, as you pointed out, are not aware of these invasions.

Would you draw the line, as a constitutional lawyer? What do you think should be done to protect this right of privacy?

Mr. BEANEY. Well, as I sketched out very briefly in my initial remarks, I think you have to look at each facet of this problem. When you say draw the lines, you draw the lines by looking at specific situations or cases or types of situations.

For instance, the criminal justice problem is in many ways the area that is least favorable to privacy.

Mr. HORTON. Do you have any suggestions that the subcommittee might take under consideration for these various type of situations that I am sure you must have thought of?

Mr. BEANEY. I don't think I have been able to get one step further than Justice Brandeis did when he talked about every unjustifiable intrusion. That is, I think you can only get at the question of where law is needed by seeing what is being done in specific areas.

If it is psychological testing that seems to probe far beyond any questions that are rationally related to fitness for the job or employment, then I would argue, whether by Executive order or by legislation, amendment of the statutory authority of the agency, I would present that.

If it is a question of welfare investigators going to homes of recipients at odd hours in the middle of the night to detect violations, and this without any greater justification than occasionally they may catch someone there who shouldn't be there if the family is to be eligible, then I would hope through the welfare law, to limit that practice.

In other words, I see as building up a definition of the right by looking at the classes of activities in our society that are affected.

Mr. HORTON. Let me ask you this: if you have two people, one person is on welfare and one person is not on welfare, and let's take person A is on welfare, do you feel that person A gives up some of his rights to privacy as opposed to B?

Mr. BEANEY. Yes, he does give up some.

Mr. HORTON. When he takes welfare?

Mr. BEANEY. He gives up some. The question is how much does he give up? Obviously, or at least it would seem reasonable, that a government agency entrusted with expending public funds for the benefit of this person would have a right to certain information about him. The question is, how much do you need and in what form do you collect it.

Mr. HORTON. Do you feel this is an area that can be regulated by law or do you feel it couldn't be?

Mr. BEANEY. It can be.

Mr. HORTON. It can be?

Mr. BEANEY. It can be by law. It may take the form of Executive order. It may take in a city, such as New York or Chicago, an order of the agency head. The precise form of the law, it seems to me, is not so important, but these things can be controlled.

In many instances, there is no specific authorization for engaging in these practices. They have sprung up not because people were determined to invade privacy, because people have good intentions, and thought they were doing a good job in the public interest.

Mr. HORTON. Thank you.

Mr. GALLAGHER (presiding). Doctor, referring back to a question I asked you previously, as to whether or not you feel the President might take some action to declare a policy and set guidelines for executive agencies, would you care to comment on this?

Mr. BEANEY. I think this would be most welcome, because in the long run, what we would need in public life and private life is a certain attitude or set of attitudes toward other people and the proper way of defining relationships with other people.

That is, laws in themselves will never do the job fully. We know that. Any law expresses the thoughts of the generation when it is

enacted and hopefully it is consistent with the thoughts of generations to come, but the important thing would be the spirit and the attitude—of both governmental officials and nongovernmental actors of all kinds who face this problem, and it would seem to me that the President, with his tremendous capacity to capture the attention and the imagination of the American people, is the one person who could do so much to make all agencies aware of the problem and not just the governmental agencies, but I think would have some influence on the behavior of all of us in the private sectors because I am just as much worried about this area as I am about government.

That is, we might end up with situations in which government is very scrupulous in its dealings with employees, but in the rest of the society, individuals and groups are pushed around by employers and institutions of all kinds. We might then not be much farther ahead, because the typical citizen deals with other institutions more frequently than he does with government.

Mr. GALLAGHER. Then you feel the Federal Government has a very grave responsibility to set an example so that there could not be a pointing of a finger to the Government as a justification for invasion of privacy.

Mr. BEANEY. I think VA is of great importance.

Mr. GALLAGHER. One question. Up until now we have all had the tendency to view technology and the advancement of technology as the enemy of privacy. Do you see any hope that we can use this same technological advancement in order that it can be used to protect privacy?

Mr. BEANEY. One would certainly hope so and given the ingenuity of scientists and technicians, one would assume that if it is important enough, that we find countermeasures, it would be done.

Thus far, and I am not technically qualified here, I can't even fix a light plug, but I understand from hearing those who are competent discuss this, that there so far have been real difficulties in devising truly effective countermeasures such as devices that could be used on telephone lines which will inevitably detect a tap, because there are ways of tapping, or accomplishing the same purpose, which will not be revealed through these devices.

Of course, as we know with our embassies and other places where security is important, one way of checking is by dismantling your house, your rooms, and putting it back together. But this doesn't seem terribly feasible. I suspect, though, that so far the energies and the thoughts have gone in principally to the use of these measures for invasionary purposes and not for defense purposes.

I understand that people who suspect that perhaps they are subjected to close surveillance have, by substantial expenditures, managed frequently to discover the nature of the invasion and can do something about it.

I would put my weight, though, on policies which would—and laws which would—dissuade people in engaging in the practices. On the other hand, if we are to have enforcement, in one area in which Mr. Horton mentioned, these are very difficult areas in which to imagine substantial enforcement because of the very secretive nature under which they are carried on.

I don't think, for instance, that my home is tapped because nothing important goes on or is ever said there, but I have no way of knowing or that somebody has planted a bug under some article in my house.

We just assume that it doesn't take place, and one of my colleagues has raised a rather ironic thought, that the only people in the future who may really enjoy privacy are those who are doing absolutely nothing important.

Mr. GALLAGHER. The Chair certainly concurs with your thinking that we have a responsibility to lay down some guidelines. We do have another witness and there are some further questions from the subcommittee. It is with some reluctance that we excuse you, but we do thank you very much for coming here and making a significant contribution to these hearings.

Mr. BEANEY. Thank you for the privilege.

Mr. GALLAGHER. The Chair would like to call Lawrence Speiser, director of the Washington office of the American Civil Liberties Union. Would you raise your hand and be sworn?

(Whereupon, Lawrence Speiser was duly sworn.)

Mr. GALLAGHER. Mr. Speiser, we thank you very much for coming here today, and without further ado, we certainly are aware of the significant work you and your organization have been doing, and I would appreciate it if you would proceed.

TESTIMONY OF LAWRENCE SPEISER, DIRECTOR, WASHINGTON OFFICE, AMERICAN CIVIL LIBERTIES UNION

Mr. SPEISER. I have no written prepared statement, but I would like to discuss some specific matters that I think are of interest to the committee and which may provide some areas which the committee would like to explore.

Generally, the question of invasion of privacy by Government agencies fits into two major categories: First, is in law enforcement, and perhaps some rules may be developed there, and the second is in the noncriminal law field, such as Government employment, and the activities of other agencies that have some kind of administrative regulations and controls.

If is significant that the fourth amendment, which placed limitations on the Government in protecting the people from unreasonable searches and seizures, was phrased in terms limiting it only to law-enforcement activities. One might think where serious rights of society are to be protected, the Constitution would be more lenient, but that has not been the case.

The limitations that exist in the Bill of Rights do, indeed, make it more difficult for law-enforcement agencies to operate, which indicates that a balance has been struck. The balance was struck, however, it seems to me, when the Constitution was adopted.

How the balance is struck in a particular case is going to be determined by the facts of that case. But I think the balance was struck so that we do not have a society in which law-enforcement agencies can be, or are desired to be 100-percent efficient. In a free society it is not possible to catch all criminals and to convict all criminals. We have placed limitations on law-enforcement agencies which does restrict them in what they can accomplish.

For example, what if, every year, law-enforcement agencies were permitted to search every home unannounced just to see what they could find?

They would engage in nonbrutal conduct, but merely make exploratory searches of every home. I am sure they would find evidence

of crime, they would find criminals, they would be able to find fugitives they cannot now uncover. But this is a price that we are unwilling to pay and, therefore, there are people who have committed crimes that go unpunished, and there are people for whom there is perhaps probable cause to arrest for crimes, but we are unable to convict. The Bill of Rights accomplishes that, and it does not seem to me to be unfair a price in order to have a free society; i.e., a government of limited powers.

The right of privacy is a developing concept, and we still have very few cases which indicate the scope of it.

Dr. Beane referred a number of times to Justice Brandeis, and I find the same kind of admiration for his thoughts and his words. I think that he was being most perceptive when he said this in one of his opinions, "The makers of our Constitution sought to protect Americans in their beliefs, thoughts and their emotions, and their sensations. They conferred as against the Government the right to be let alone the most comprehensive of the rights of man and the right most valued by civilized men."

However, this concept we are losing more and more because of the interaction in our society, and the Government, as Dr. Beane suggested, sets a pattern.

For example, in the field of Government employment, there is a belief, which is often expressed that Government employment is not a right, it is a privilege. Once you accept that contention, then you accept the argument that because it is a privilege, any condition at all can be attached to it, such conditions as the kinds of tests that you take, the questions you have to answer, the kind of searching, the kind of investigation that you can be subjected to in order to have Government employment.

This concept that Government employment is a privilege and, therefore, the Government may do anything is nonsense. It just isn't true. It is not true, for example, that merely because Government employment is called a privilege, that the Government could bar individuals who attend mass, or those who are of a certain color, or that it can bar individuals from Government employment who have red hair, or some other features.

There must be some reasonable relationship between the kind of condition that is imposed on Government employment and the Government employment itself.

There has been awareness among some executives in the Government about invasions of privacy. A memorandum was issued by Under Secretary of Defense, Walter T. Skallerup, Jr., on November 26, 1962, on the subject of civil and private rights.

In it he set forth guidelines that should be used by security investigators and review boards. He warned them to stay away from certain areas that would constitute invasions of privacy of individuals.

He stated, for example in his memorandum:

Inquiries which have no relevance to a security determination should not be made. Questions regarding personal and domestic affairs, financial matters, and the status of physical health fall in this category unless evidence clearly indicates a reasonable basis for believing there may be illegal or subversive activities, personal or immoral irresponsibility, or mental or emotional instability involved. The probing of a person's thoughts and beliefs and questions about his conduct, which have no security implications, are unwarranted.

He attached to this memorandum a list of questions which should not be asked of either a subject, or of another individual. For example, he included in the questions involving religious matters that should not be asked, such questions as: Do you believe in God? What is your religious preference, or affiliation? Are you anti-Semitic, anti-Catholic, or anti-Protestant? Are you an atheist? Do you believe in the doctrine of separation of church and state?

On racial matters, he set forth the following questions which should not be asked: What are your views on racial matters such as desegregation of public schools, hotels, eating places, et cetera? Are you a member of the NAACP? Do you entertain members of other races in your home? What are your views on intermarriage? Do you believe one race is superior to another?

He had prohibited questions on domestic matters, political matters, such as: On political matters: Do you consider yourself to be a liberal or a conservative? Are you registered to vote in primary elections? These questions were collected, I believe, because they were asked by security investigators, and even what is more horrendous is the fact that some of them are still being asked.

Since this was issued, I wrote to each of the Under Secretaries of the three services and asked for their regulations to determine whether their investigators were instructed not to ask these questions. In every case, I was refused the regulations on the grounds that they were internal management guides.

Some of the services indicated that there were no changes in the regulations because their regulations already covered questions of this kind. I do not believe this is the case.

Just recently, the Army published some regulations which seemed to cover this kind of ground, but certainly they were not as specific as this memorandum of Mr. Skallerup. Since this memorandum was issued, I have had three cases in which people have been interviewed, and have been asked questions that are listed as being barred.

In two of the cases, there were apologies and an admission the questions should not have been asked. In one case, there was a denial that the questions were asked. In no case has disciplinary action ever been taken against the investigator.

We come back again to one of the points Dr. Beaney was making that the individuals involved, who do invade privacy, are generally not being malevolent. They are just being overzealous.

Government executives are unwilling to discipline or to punish those employees who are under their jurisdiction—and who are merely being overzealous. What they are doing is what they conceive to be for the public good, but the fact that they are invading someone's privacy is not considered serious enough for the Government to take any kind of disciplinary action to show it really means what it says when it says, "Do not invade any individual's privacy."

Secondly, in this area, the Government, itself, sets a bad example. There is not this kind of regulation for all Government agencies. If it has been issued by the three services, it is not being rigorously applied.

The Civil Service Commission has the job of screening Government employees, prospective Government employees, and probationary Government employees for suitability for Government employment, and it has shown a complete insensitivity to the kinds of questions that should be asked and the kinds of questions that should not be asked.

For example, the Supreme Court determined in a case of *Cole v. Young*, that a security program which covered Government employees should be restricted in its coverage to sensitive agencies and sensitive jobs. Under the guise of determining "suitability," the same kinds of information that is collected and utilized in security investigations is also utilized by the Civil Service Commission and is applied against all Government employees.

Within the past year, I have had three cases brought to my attention involving three people who worked for nonsensitive agencies, or were applying for nonsensitive jobs.

Yet the Civil Service Commission conducted investigations and attempted to extract information that had absolutely nothing whatever to do with the kinds of jobs they were doing, or whether or not they were security risks. Furthermore, they couldn't have been security risks because they weren't in that kind of situation.

For example, interrogatories were sent to one person, alleging that in 1959 and 1960 she had served as the "contact" at Swarthmore College for the Young Socialist Club of Philadelphia.

It alleged that she was reportedly on the mailing list of the Philadelphia Socialist Workers Party in 1959, and had received an invitation to attend a forum sponsored by that branch to be held in 1959. This was an allegation in 1964 about events even if true referred to matters 6 years ago.

The person involved here had absolutely nothing to do with security, with sensitive materials, or with classified information. Why the Government is spending money in making investigations of this kind of Government employees to determine their suitability for Government employment, I fail to see. The effect is however, that when you have cases like this, it means that individuals in our society are going to restrain themselves in the kinds of things they do. Whether they are going to get into security or sensitive positions, or not, they are not going to explore ideas, they are not going to be intellectually curious, and they are going to restrain themselves, if there are investigations like this.

Another individual, a young woman, received information that in 1958 that she is alleged to have attended a gathering held at the residence of a certain person in New York at which there was a guest speaker.

The guest speaker was alleged to be a member of the Communist Party's national executive committee. It doesn't allege this person was a Communist, the one who received the interrogation. It does allege she reportedly organized a "progressive youth group," whatever that means.

I thought that we had gotten over this era that we called McCarthyism—but we haven't. We have institutionalized it.

There is no law on the statute books which authorizes the Civil Service Commission to utilize these criteria in this fashion. There is no Executive order which presently is in effect covering this. These are regulations of the Civil Service Commission which they have adopted themselves.

I have had extensive correspondence with the Chairman of the Civil Service Commission who justified the interrogatories and indicates that he feels the Commission is on a sound basis in continuing to do as it has been.

Mr. GALLAGHER. Were they sent out by the Commission, itself?

Mr. SPEISER. Yes, they were.

Mr. HORTON. Another question. Would you explain the circumstances under which they were sent?

Mr. SPEISER. Yes, sir. For two of the cases, two were probationary Government employees, within a year after they started their job. They received the interrogatories during the period of time they were working. And they were asked to respond to it.

In the three cases, it is sort of interesting showing the lack of real necessity as far as the Government is concerned, one of the individuals answered all of the questions, and received a clearance, or in effect was found suitable. He was so disgusted by the whole business he left the Government. He had a doctorate in chemistry and wasn't working in a sensitive job, but he left the Government. We lost a good Government employee.

The second person answered the questions as to herself but refused to answer questions regarding members of her family. She likewise was found suitable, showing that the Commission didn't really have to ask the questions about the members of her family.

The third person refused to answer any of the questions. Hopefully, we thought we had a test case. But the Civil Service Commission said, "A year has gone by, so therefore we have lost jurisdiction, and, therefore, we are not ruling on the question as to whether she was suitable for Government employment or not." She was an applicant for Government employment and did not have a job at the time.

Mr. HORTON. Do you have a list of these questions?

Mr. SPEISER. I have the interrogatories that the individuals received, of the kinds of questions that were asked by the Civil Service Commission. In no case did the Commission make any allegation that the individual was a member or had been a member of the Communist Party himself, assuming that is a valid criterion for Government employment. But in none of the cases was that alleged in any of the interrogations. The invasion of privacy does not stop there, however. Even after the Civil Service Commission gets the responses back and says that the person is suitable for Government employment, it sends the entire file on to the employing agency. It doesn't stop within the Civil Service Commission.

There should be a single standard of suitability for Government employment, and yet the questionnaires and the information is sent on to the employing agency. What controls are in the employing agencies as to the kinds of information, the interrogatories and the answers and who gets to see them in the employing agency varies. There is no standard of overall Government control. And that information could very easily be circulated depending on the Government agency.

There is a question on the form 57 that is asked of all prospective Government employees—not a question of about whether you have been convicted of a crime—but this question—question 37: "Have you ever been arrested, taken into custody, held for investigation or questioning, or charged by any law enforcement authority?" There is an exemption for any traffic violations for which you paid a fine of \$30 or less, or anything that happened before your 16th birthday. If a law enforcement officer acted improperly, made a false arrest,

and picked someone up and then discharged him, no criminal charge ever having been filed, he is bound to disclose this information to the Government, even though the law enforcement agency was at fault. If he fails to, he can be discharged for filing a fraudulent form 57, plus being subjected to criminal penalties.

As you are probably aware, throughout the South, and in the North as well, there are a lot of people who are involved in civil rights demonstrations who are arrested, and in many cases arrested improperly. In many cases, no criminal charge is even filed, and yet they have to disclose this kind of information. There may be no judicial determination about the validity of the arrest, or whether probable cause existed or whether the law enforcement officer acted properly, and yet the individual must answer that kind of question on the form 57.

Another question which seems to be even worse is the one found on the application to file petition for naturalization, form N-400, which must be answered by all persons applying for naturalization. It is the following: "Have you ever in the United States or in any other place knowingly committed any crime or broken any law for which you have not been arrested?" This would require people who had lived in Nazi Germany, for example, or the Soviet Union, to disclose violations of laws for which they had never even been charged by any government agency, even in such totalitarian countries, including violation of the old Nazi racial laws.

Going to a slightly different area now covered by one of the questions in your letter, Mr. Chairman, on the confidentiality of income tax returns, they are not really very confidential. Executive agencies can get them almost at will. They include such assorted agencies as the Civil Service Commission, the Federal Trade Commission, HEW, Housing and Home Finance Agency, the Interstate Commerce Commission, Labor Department, Securities and Exchange Commission, Small Business Administration, Social Security Administration, and Tennessee Valley Authority.

Last year I collected a number of Executive orders which had been issued by the President at the request of congressional committees, asking for permission to see income, excess profits, or State and gift tax returns.

On the Senate side, for example, the Senate Committee on Government Operations, on February 4, 1963, and there probably was one for this year, obtained permission to view any income, excess profits or State or gift taxes for the years 1947 through 1963.

The Senate Committee on Foreign Relations was granted similar authority for the years 1950 to 1962.

The Senate Committee on Rules and Administration was given similar authority for the years 1959 to 1963.

The House Committee on Un-American Activities was given similar authority for the years 1947 to 1963.

The House Committee on Public Works was given similar authority to inspect returns 1956 to 1963.

The House Committee on Government Operations was given authority to inspect similar returns for the years 1947 to 1963.

No explanation was given as to why this committee or any other committees needed it, but they apparently could get the authority to see all of these returns of anyone they asked for.

On the question of mail covers, I know that the committee is interested in it, I have no new information to add to it. I know that——

Mr. GALLAGHER. Mr. Speiser, in reply to your comment on income tax returns and one which I am not quite sure I am in agreement with, in reference to the House Committee on Government Operations, it takes full committee approval of a resolution on each individual case in order to have such permission to review such reports. I thought you might like that for the record. It is not a very easy thing to get. However, I agree, it is potentially a very dangerous thing.

Mr. SPEISER. I think that does have some measure of control. I fail to see, however, why the wide range of years is necessary as requested for all of these committees. I can't see any justification for asking for income tax returns back to 1947, for example.

There was a certain degree of notoriety concerning the inspection of trash here in the District of Columbia, and a complaint was made by the local affiliate of the American Civil Liberties Union, the National Capital Civil Liberties Union. The trash of a wife of an attorney was being segregated. Apparently the practice has ended, although we are not quite sure, because the response that was received from General Duke, who is on the Board of Commissioners, was that the city department never has engaged in trash snooping, and furthermore, it wasn't going to do it any more in the future.

Mr. GALLAGHER. Is that in response to my letter?

Mr. SPEISER. Yes; that is correct.

Mr. GALLAGHER. It was rather ambiguous.

Mr. SPEISER. On the question of peepholes, we have urged that the use of peepholes for surveillance of public restrooms be ended as invasion of privacy, that there are other ways of policing. Apparently it is considered a vital police function to seek out homosexuals. Whether the police have discontinued the practice at the present time is unknown.

One of the ways in which Government agencies feel that they can invade privacy has been the development of a wide range of regulations. For example, although a search warrant supposedly is required for criminal prosecution to search a home, we have health inspectors, and this has been upheld by the Supreme Court, unfortunately, as well as housing inspectors, who can go into homes without probable cause and without, perhaps, advance notice.

I think that the problem is the Government here is setting patterns for the rest of society. With wiretapping, for example, the Government treats wiretapping, I think, rather flippantly, although we have on the books a law which, I believe along with others, prohibits wiretapping, the Department of Justice, and the Attorney General, has interpreted this only to prohibit intercepting and divulging, which they interpret to mean divulging outside of the Government agency.

The fact of the matter is that wiretapping is done by law enforcement agencies throughout the country. [Never are there any prosecutions for tapping for violating section 605 of the Federal Communications Act of law enforcement officers unless they do it not for law enforcement purposes, but for private gain. That is the only time the Government gets excited about invasions of privacy. When individuals engage in invasions of privacy and the justification

is that they are merely doing their job, whether it is a search without a warrant, whether it is wiretapping, as long as it is in pursuit of their job to try to catch criminals, nothing is ever done either by the agency for which they are employed in the form of disciplinary action or by any agency as far as criminal prosecution. This is one reason, for example, but certainly not the only one, that we have opposed the proposed wiretapping bill of the administration, which has been introduced the past couple of sessions. The advantage that the administration suggests is that it will then stop all unlawful tapping, and it will vigorously prosecute anyone who taps outside the law.

[But the whole pattern of the U.S. Department of Justice or any law enforcement agency is that they never prosecute individuals who are in law enforcement agencies for nonbrutal activities which they commit in the pursuit of law enforcement purposes. Until that occurs, then it seems to me that police officers are going to continue to search homes without warrants. The most that happens then is that the cases are tossed out of court, and we are throwing more and more of a burden on the courts. But the police continue to do it. They continue to violate their own rules of their departments, they continue to violate the penal laws because they know they can do it with impunity.] The worst that happens is that a case is lost, and until we have some kind of Executive order, or perhaps an expansion of the Civil Rights Act with some clear legislative intent, that that act be enforced for invasions of privacy, then perhaps the kind of legislative oversight that this committee is considering and I hope will do, we are not going to have Government agencies concerned with and observing the values that we have, which I think are necessary for a free society including protecting the right of privacy.

Thank you.

Mr. GALLAGHER. Thank you very much, Mr. Speiser, for your very meaningful remarks.

The Chair would appreciate it if you would submit the type of questions that you mentioned in your testimony. If you will make those a part of the record, we would like to have them.

Mr. SPEISER. Because of the rules of your committee, I would prefer to cut out references to specific names and any identifying remarks, but I will submit the questions that were submitted by the Civil Service Commission to prospective Government employees, plus a copy of the Walter T. Skallerup memorandum.

Mr. GALLAGHER. We would like to have both of those.

Mr. Horton?

Mr. HORTON. I just wanted to ask about that memorandum. You left out some questions, that you said had to do with personal—

Mr. SPEISER. I would be glad to read them.

Mr. HORTON. Are you going to submit it?

Mr. SPEISER. There are only a few. Let me read those questions.

Mr. HORTON. These are the type of questions you say were being asked, but this memorandum apparently eliminated but you contend are still being asked?

Mr. SPEISER. That is correct, or at least I have had cases which have arisen since then, which indicate they are still being asked and when complaints have been made no disciplinary action was taken against the investigators who asked the kinds of questions.

The personal domestic matters questions are:

How much income tax do you pay?

What is the source and size of your income?

What is your net worth?

What contributions do you make to political, charitable, religious, or civic organizations?

Describe any physical ailments or diseases you may have.

Do you have any serious marital or domestic problems?

Are you, or have you been, a member of a trade union?

Is there anything in your past life that you would not want your wife to know?

Incidentally, on that last question, I have a security case right now under the industrial security program, in which a nongovernmental employee, who is required to have access to classified information, was asked that kind of question by two investigators, who interrogated her over a 6-hour period, after discouraging her from having counsel with her.

Mr. HORTON. Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Rosenthal?

Mr. ROSENTHAL. I have just one question.

Mr. Speiser, with regard to the things that you find offensive, that the Government has been participating in, have you found any change in Government activity or climate over the last 4 years? In other words, has this type of activity increased, decreased, or remained static?

Mr. SPEISER. I don't know. If you had asked me last July, whether I thought that they had decreased, I would have said, "Yes." And then I go to these three Civil Service Commission cases in a row. I have a feeling that all of this is institutionalized, that perhaps as Dr. Beaney said, we have become calloused about it, and individuals aren't inclined to protest. I think you have a number of problems in determining invasion of privacy. One is the fact that they occur, and in many cases, for example, the individuals don't know that their privacy is invaded.

Secondly, there has been this belief that the Government can ask either Government employees or applicants a wide range of things, from questions, to tests, and that individuals accept this as being the part of Government employment because of the myth that it is a privilege, not a right also, I think, that most people are not inclined to make a fuss. They are starting a new career going to work for the Government, they feel, perhaps, if they do make a fuss, they might jeopardize their future careers, their advancement, and so they are inclined to go along with it.

I think the problem is not so much that the individual should have to make a protest, I think the focus should be that the Government shouldn't be engaged in that activity, and shouldn't be asking the questions.

Mr. GALLAGHER. You agree with Dr. Beaney and some of the earlier committee statements, that the Federal Government has a very grave responsibility to set standards of conduct and responsibility in this area?

Mr. SPEISER. I agree wholeheartedly.

Mr. GALLAGHER. Mr. Speiser, we thank you very much, and do hope that we can call you at some future date.

Mr. SPEISER. I hope to be of whatever service I can to the committee. I think that this is an excellent endeavor and I wish you luck in proceeding with it.

Mr. GALLAGHER. Thank you very much.

The subcommittee will stand adjourned until 11 a.m. tomorrow morning, when our first witness will be John Macy, the Chairman of the Civil Service Commission.

(Whereupon, at 4:30 p.m., the subcommittee was recessed, to reconvene at 11 a.m., Thursday, June 3, 1965.)

SPECIAL INQUIRY ON INVASION OF PRIVACY

THURSDAY, JUNE 3, 1965

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 11:05 a.m., in room 2203, Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman) presiding.

Present: Representatives Cornelius E. Gallagher, Benjamin S. Rosenthal, Frank J. Horton, and Henry S. Reuss.

Also present: Norman G. Cornish, chief of special inquiry; Miles Q. Romney, associate general counsel, Committee on Government Operations; James A. Lanigan, general counsel, Committee on Government Operations; and Raymond T. Collins, minority professional staff.

Mr. GALLAGHER. The special inquiry will come to order.

The Chair would like to welcome a member of the Government Operations Committee, Mr. Reuss, who has done considerable work in this field and has taken a great interest, and the Chair would like to make him part of this hearing and hopes that he will participate in any way he wishes.

Mr. REUSS. Thank you very much, Mr. Chairman. I do appreciate it.

Mr. GALLAGHER. This hearing is a continuation of a special inquiry under the House Committee on Government Operations into the subject of invasion of privacy as it is related to the efficiency and economy of certain Federal investigative and data-gathering activities. Today and Friday we will take a look at the use of psychological questionnaires or personality tests on Federal employees and job applicants.

Tests of this kind are used by a number of Federal agencies allegedly to pinpoint persons with existing or potential psychological problems. The stated objective in the giving of most of these tests is to protect the Federal service from persons who might not be suited for certain types of jobs. This is a commendable objective and certainly no one in Congress has any quarrel with it.

However, individual rights must also be balanced against Government responsibilities and, unfortunately, many of these tests constitute what is, in my opinion, a serious invasion of the right to privacy, particularly in the circumstances in which they are given. Many Federal workers and job applicants are subjected to extensive tests on their sex lives, family situations, religious views, personal habits, childhood happenings, and other matters normally regarded as only the private business of individuals.

This special inquiry has invited the distinguished Chairman of the U.S. Civil Service Commission, Mr. John W. Macy, Jr., to the hearing.

this morning to discuss his agency's position with respect to the appraisal of personal characteristics in the selection of Federal employees under the merit system. I shall insert that letter at this point in the record:

MAY 24, 1965.

HON. JOHN W. MACY, JR.,
Chairman, U.S. Civil Service Commission,
Washington, D.C.

DEAR MR. MACY: The House Committee on Government Operations is conducting an investigation of matters related to the invasion of privacy by Federal agencies. Hearings are scheduled to begin June 1, 1965. I have been designated as chairman of this special inquiry.

One of the matters under current investigation is the use of psychological questionnaires and personality tests on Federal employees and job applicants.

It is my understanding that the Commission has tried to discourage Federal agencies from using such tests in personnel selection and promotion because of their unreliability and the fact they almost always contain questions which constitute a gross invasion of privacy into the lives of Federal employees and job applicants. The Commission deserves great commendation for its position.

I have been hopeful that the Commission also would come up with a firm written policy against such tests. In any case, I think the public record should show clearly just what the position of the Commission is in this matter.

In line with this, I would like to invite you to testify before our special inquiry at 10 a.m., Thursday, June 3, 1965.

Your staff may communicate with Mr. Norman G. Cornish, chief of special inquiry, room 2157, Rayburn Office Building, telephone Government code 180, extensions 4050 or 5050, concerning any additional details relating to the hearing. It would be appreciated if 50 copies of the prepared testimony could be made available for the subcommittee by June 2, 1965.

I am enclosing a copy of a statement which appeared in the Congressional Record of Monday, May 17, 1965, which I thought might be of interest to you.

With kind regards.

Sincerely yours,

CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy.

We are particularly happy to have you here, Mr. Macy. In my view, the statement you are about to present is of major importance. So on behalf of the subcommittee, we welcome you here this morning.

MR. MACY. Thank you very much, Mr. Chairman.

(Whereupon, Mr. John W. Macy, Jr., was duly sworn.)

MR. GALLAGHER. Would you please proceed, Mr. Macy.

TESTIMONY OF JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

MR. MACY. Mr. Chairman, members of the committee, I appreciate very much this opportunity to participate in your proceedings. You are engaged in a review of a very important area of interest to the Civil Service Commission. I have a statement that I would like to read, if I may, and then I would be happy to answer any questions that you and members of the committee may have.

MR. GALLAGHER. Please proceed.

MR. MACY. For positions filled under the provisions of the Civil Service Act, the Commission has a number of responsibilities in which psychological testing may be involved. These include:

(1) Developing selection methods and procedures for hiring new employees.

(2) Establishing the standards and guidelines applied by agencies in promoting and reassigning employees.

(3) Setting the standards and policies governing medical examinations for fitness for duty and subsequent actions leading to separation, reassignment, or disability retirement.

First, with respect to the hiring process, the Commission prepares and issues the job standards and testing methods that are used. It has been the Commission's longstanding policy and practice to follow closely the requirement of the basic Civil Service Act of 1883 that "examinations for testing the fitness of applicants for public service shall be practical in their character and so far as may be shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed."

May I say as an insertion, Mr. Chairman, I believe the congressional draftsmen, 82 years ago, were very sound in their approach in calling for examinations that were practical and were job oriented.

The competitive examining program directed by the Commission makes use of various methods for determining the relative fitness of applicants, such as: evaluations of experience and training from information submitted by the applicant; written and performance tests of skills, aptitudes and abilities; interviews; reference checks; and qualifications investigations.

The decision as to which devices to use is based on whether the method is practical, whether it is suitable for the purpose intended, and whether it is acceptable from a public relations standpoint.

Furthermore, we direct that measurement devices do not call for information concerning the political, racial, or religious opinions or affiliations of any persons, or cover knowledge gained only through such affiliations.

Over the years a variety of psychological tests have been developed which meet these standards. These are tests which measure the applicant's specific job knowledge or his aptitudes to learn to perform the duties of an occupation and to pursue a successful career.

I assume that your special inquiry is not concerned with this category of psychological tests. Rather, I understand your area of interest to be those tests and questionnaires which ask the applicant to reveal personal information, such as his feelings, his likes and dislikes, his personal and social habits, and the like.

Incidentally, I see no basic distinction between "questionnaires" and "tests"; I use the term "test" to cover the variety of so-called personality traits such as the applicant's behavior toward other people in terms of, for example, aggressiveness or anxiety. They generally yield scores which seek to show the degree to which the applicant has or exhibits such traits.

Personality tests of the type in question fail to satisfy merit system precepts for employment on a number of grounds:

(1) They were developed for clinical use, and are not designed to measure the specific characteristics needed by persons working in particular occupations.

(2) These tests are subject to distortion, either purposefully or otherwise. Therefore, the scores are undependable as a basis for employment decisions.

(3) The scores on such tests can easily be grossly misinterpreted and misapplied by persons who are not qualified psychiatrists or psychologists trained to interpret such test results in the light of their total study of the individual.

(4) In view of the character of the questions asked, if the results of personality tests are used for employment purposes, the individual's right to privacy is seriously jeopardized.

For these reasons, Mr. Chairman, the Commission has not used or permitted use of personality tests in hiring civil service employees. I have issued a restatement of this policy to agencies to reaffirm and strengthen this longstanding position. Copies of this policy restatement and of the reasons which support such a policy are being submitted to your special inquiry. In brief, this policy provides as follows:

The Commission does not itself use and prohibits agencies from using personality tests as such in any personnel action affecting employees or positions in the competitive service. This does not, of course, relate to the proper use of such tests by a qualified psychiatrist or psychologist when, in his professional judgment, they would assist in his total study of an individual in connection with medical determinations for employment or fitness for duty.

You will note that this statement goes beyond the use of tests in employment and covers all personnel decisions affecting Government employees. We are also making clear to agencies that this policy applies to positions which are subject to the Civil Service Act but have been excepted from competitive examination procedures by action of the Commission. It is of particular significance, I believe, that our policy does not interfere with the use of psychological tools when they are needed in medical evaluations of applicants or employees.

I want to reaffirm, Mr. Chairman, my strong conviction that we must maintain and improve the method for evaluating the physical and mental health of applicants. Through such a program we are better able to keep out of the Government work force persons with demonstrable emotional or behavior disorders that would, in the judgment of competent medical specialists, create a hazard both to the Government and to the employee.

For example, we should not appoint to an air traffic controller position a person about whom there is reasonable doubt as to whether he can stand up to the pressure of that work. As another example, we should try to make sure that we do not hire as ward attendants in our medical institutions persons who are hostile or sadistic and would be harmful to our patients.

There are very few positions for which psychiatric evaluation is a regular part of the medical examination. However, in these instances, the best way to identify persons with behavior or emotional problems is through the psychiatric phase of the medical evaluation.

Our proper concern, therefore, is to insure that when such evaluations are required, they be conducted by fully qualified specialists and with full consideration of the rights of the individual as well as of the needs of the Federal service. The specific diagnostic methods used in such examinations are properly determined by the medical specialist.

Let me turn now from hiring practices to reassignment and promotion decisions. The reassignment and promotion of employees in competitive positions is carried out by agencies under the guidelines provided by the Commission. Agency promotion programs are regularly subject to inspection by the Commission. Insofar as I am aware, there have been no incidents reported through our inspection program of the use of personality tests in the merit promotion program.

Finally, as to medical examinations for fitness for duty, these are conducted by the agencies. As a result of such examinations, agencies may reassign employees, or they may retain them in their present positions, or they may file applications for disability retirement on behalf of the employee. Our stated policy here is that agencies should make every effort to reassign or retrain an employee who, because of his physical or mental condition, can no longer do his work efficiently and safely.

Disability retirement is approved only when evidence shows that the employee has a disease or injury which prevents him from performing his job in a useful and efficient manner and without danger to himself or others. Any reasonable doubt is to be resolved in favor of the employee. Almost all claims involving emotional illness include psychiatric examination. Psychological testing is also used, but always as an adjunct to, and never independent of, examination by a psychiatrist.

In conclusion, Mr. Chairman, let me point out that our policy is intended to prohibit general use of personality tests as they are presently designed. I am convinced that we must find more practical and acceptable ways of measuring those personal qualities which are so critical to job performance. Thus, our staff will keep alert to research findings, and will, as the opportunity arises, try out new methods that may meet the special demands of the merit system.

Mr. Chairman, I also have an additional statement, which it has been suggested by Mr. Cornish, the committee might also wish to have. With your permission, I will read that into the record as well, or would you prefer to question me on my statement first?

Mr. GALLAGHER. Mr. Chairman, I would like to congratulate you on your statement. However, since this is the first public announcement of this policy, we would appreciate very much, if you could read the justification of that policy.

Mr. MACY. This statement is entitled "The Appraisal of Personal Characteristics in the Selection of Federal Employees Under the Merit System."

I. MERIT SYSTEM EXAMINING METHODS

A. The qualifications of applicants (other than physical abilities and suitability) that are important to examine in filling Federal positions fall into four broad areas:

- (1) Basic aptitudes and abilities to learn the duties of the position.
- (2) Specific knowledge.
- (3) Specific skills and abilities.
- (4) Personal characteristics.

B. Any examining method for merit system use must be considered in terms of whether—

(1) It provides information about the candidate which is necessary and useful in reaching a conclusion that he will be successful in the particular occupation;

(2) The information provided is stable and dependable; that is to say, the information is as free as can be from distortion due to bias (intentional or otherwise) on the part of the applicant or the persons using the results, and free of other factors that are unrelated to the qualifications being measured;

- (3) It is practical to administer;
- (4) It is recognized by applicants as fair and reasonably related to job duties;
- (5) It is free of questions concerning the political, social, racial, or religious opinions or affiliations of applicants, and does not cover knowledge gained only through such affiliations, and
- (6) It safeguards the applicant against unwarranted invasion of his privacy.

II. APPRAISING PERSONAL CHARACTERISTICS

For each of the first three kinds of qualifications requirements, listed in I-A, above, over the years a variety of tests and other appraisal methods have been developed which have met these criteria adequately and have, in fact, proved useful in selecting the best qualified applicants.

Beyond these traditional areas, however, it is generally recognized that the performance of employees is, to a significant degree, related to a wide variety of personal characteristics which are commonly called personality traits, motivations, attitudes, interests and temperaments.

A. General methods of personality testing

In the effort to evaluate these characteristics, two general types of examining methods have been developed.

The first is based on observation of the applicant in real life situations or in miniature situations that reflect the job. These observations are obtained through a variety of techniques such as interviews, reference checks, ratings, situational performance tests, and review of past records of job performance.

The second major type comprises those methods generally called personality tests. In these tests, the applicant is presented with various materials—pictures, questions, words—and from his responses interpretations are made as to his personality traits and behavior patterns.

One group of such tests, the projective tests based on pictures, ink blots, et cetera, are recognized as purely clinical instruments and as clearly unadaptable to use in the Federal employment system.

The largest group of personality tests are those which are paper and pencil questionnaires or inventories. In these, a number of questions are assembled into a form on which the applicant tells about his opinions, his likes and dislikes, his values, his interests, his personal and social habits, his feelings, et cetera.

These tests are generally constructed by preparing a large group of questions presumed to measure a particular personality trait, then giving these questions to people, some of whom are thought to have this trait to a high degree and others to a low degree. Then the questions which are answered in one way by the high group and in a different way by the low group are considered to be useful in measuring the personality trait.

When, in this way, a number of items have been found which measure the same trait, these items become a test or scale for this trait. The average scores on such a scale may be found for various groups of people to provide a framework to which the score for a particular individual can then be related.

In this procedure, the usefulness of the test questions rests on the fact that they do, in fact, differentiate between groups who are presumed to have different degrees of the trait in question. The finding that such questions do distinguish between groups does not tell whether they do, in fact, reveal the basic personality trait under study.

All methods now available for evaluating personal characteristics suffer from inadequate information about the specific requirements of jobs, and inadequate measurement tools. There are, however, two major differences between the observational methods and the paper and pencil personality inventories.

(1) Generally, the observation methods can be designed to get at the kinds of behavior which the job is believed to demand, rather than to yield conclusions about poorly defined broad traits;

(2) The observation methods generally do not require or lend themselves to numerical scores to which trait names are easily attached. In contrast, the inventories do yield scores reported in trait terms, for example, sociability, submissiveness, hypochondriasis, et cetera.

Such scores are difficult to interpret even by properly trained professional persons. When recorded in personnel records, they become readily accessible to many persons who will read into the scores much that is not there, and may use them, unwittingly or otherwise, to justify personnel decisions.

B. Problems in using personality tests

There are a number of serious problems in the use of such paper and pencil personality tests in the Federal merit system:

(1) If the questions in such a test are to be useful, they must be based on knowledge by the employer as to the specific kinds of behavior, interests, and other personal characteristics that are required in the position to be filled.

Furthermore, the test questions must necessarily reflect the standards and values of management and the kind of behavior it expects of its employees in the work situation. For the most part, such information has not been developed in the kind of detail and specific language in which job requirements, such as aptitudes and skills, can be expressed.

For any organization to develop such information would require a continuing long-range research effort. In the absence of such an effort, it is unwarranted to assume that the answers by applicants to questions on such published tests are, in fact, related to the requirements of the job.

(2) The available personality inventories have been developed for clinical and counseling situations in which the cooperation of the applicant and a high degree of honesty can be assumed. The use and interpretation of such tests is a professional responsibility. The trained clinician can evaluate the test scores and the responses to individual test questions as a proper part of his total study of the person, of his culture, and of the circumstances surrounding the use of the tests.

However, when nonprofessionally trained persons simply administer these tests, compute overall scores, and then use the scores to label the applicant on such general traits as sociability, creativeness, and so on, the safeguards and professional standards of the clinical situation are violated. In employment use, particularly, the test becomes

a threatening and competitive device which the applicant (consciously or otherwise) is likely to distort in his favor.

As a result, there is even more danger if nonprofessionally trained persons use these test scores to make inferences about the personality and behavior of the applicant and his probable job adjustment.

(3) Research studies of the use of scores on such tests in the prediction of job success show that they have only a very limited value, even in making group predictions. For individual prediction, tests must be much more precise than for group prediction. The available tests are simply not adequate for individual prediction of job performance.

(4) In the competitive situation these tests can be readily distorted. Applicants can either recognize what the acceptable answers are or can be taught to recognize them. Thus, the results are undependable.

(5) Existing tests are not limited to information which management needs to know in order to make sound personnel judgments. Many questions included in such tests have no relevance for employment purposes.

(6) The use of scores by untrained people leads to unwarranted conclusions about scores which may be different from the norm. There is no evidence that persons who have atypical scores on such tests are necessarily poor risks from a vocational standpoint.

To eliminate all applicants who do not happen to fall at the average on such tests might well be unwisely to reject many persons who could contribute materially to the organization. Certainly, some deviations in behavior are unacceptable, for example, chronic alcoholism, frequent emotional instability, et cetera, which clearly would affect the employees' dependability and ability to do the work for which he is paid.

It is usually possible for the employer to find out about such problems from the applicant's past history. Personality tests are not needed to uncover them.

Beyond these deviations, however, there is relatively very little known about what kinds of behavior are acceptable or unacceptable in particular job situations.

(7) In the nature of personnel management processes and records maintenance, it is almost impossible to safeguard the privacy of the testing material and thus the privacy of the individual.

Many questions included in personality tests call for information which the employer does not need in order to reach sound personnel decisions. To require the applicant to take a test of this sort is to confront him with the dilemma of revealing personal information which he may not wish to reveal and whose purpose he cannot see, or of risking loss of the employment opportunity. If the information is, in fact, not essential to the personnel decision, then clearly the privacy of the applicant would be violated.

Although the test scores, answer sheets, and related information should be kept confidential, it is quite likely that the information will be seen and used by many people for purposes for which the material is totally irrelevant, and perhaps damaging.

III. POLICY STATEMENT

For the above reasons, the Commission's policy with respect to use of personality tests is as follows:

Use of personality tests prohibited

Available personality tests, questionnaires, inventories, and related methods that seek to appraise personal characteristics have not generally been designed for occupational placement. They are appropriately used by professional persons for clinical diagnostic and counseling purposes.

For this reason and because results of such tests are subject to various kinds of misinterpretation, the Commission does not itself use and prohibits agencies from using personality tests as such in any personnel action affecting employees or positions in the competitive service.

This does not, of course, relate to the proper use of such tests by a qualified psychiatrist or psychologist when, in his professional judgment, they would assist in his total study of an individual in connection with medical determinations for employment or fitness for duty.

The above policy restricts the use of current personality test methods intended to gauge personal characteristics. The Commission will consider proposals for the use of a particular personality test only when it has been shown by systematic research to have a direct value in making personnel decisions.

As distinguished from tests of personal characteristics, psychological tests measuring qualifications, such as knowledge and aptitudes, are appropriate and useful for job placement purposes.

For further background information as to the reasons for this policy, see the discussion of personality tests in appendix A to part II, Handbook X-118. This is now being revised and elaborated to provide a more complete review of the nature, proper uses, and limitations of personality tests.

This is the statement, Mr. Chairman, that has been released to the personnel officers of the Government in the past week.

The additional work that I referred to in the final paragraph is underway and will be incorporated as a part of the guidance material provided by the Civil Service Commission to all of those who make personnel decisions throughout the Federal Service.

Let me say again, thank you for the opportunity to be here with you, to present to you these facts and opinions. I hope they will be useful to you and your committee in the important work you are doing.

I would be happy to answer any questions you may have as a result of my statement.

Mr. GALLAGHER. Thank you very much, Mr. Chairman. The Chair would like to congratulate you for your very profound statement of policy. I think that everyone in our civil service owes you a debt of gratitude for this statement. I believe that the rippling effect of your statement will be extremely meaningful to anyone in this country who has to work for a living or has a desire to serve in the Government of the United States.

We do have some questions and before we get to them, I would like you to clarify one thing. I gather you are not referring to any exception permitting mass testing merely because psychologists are utilized?

Mr. MACY. Let me be specific. Psychologists are used in the design of the tests which I referred to as the means of measuring the potential of the individual to perform a kind of work that the Government has to offer.

The professional label is psychometrician. This is the profession that the Commission uses in designing tests that measure relative ability to perform the work. This is the basic professional core of our staff for this purpose.

The reference to the use of personality tests in conjunction with a medical review was only in connection with the necessity for a medical appraisal of the individual either because of the specific nature of the job and its demands, or because the individual appeared to have need for such an appraisal as far as his or her future is concerned.

So, in answer to your question, specifically, this is not used on a mass basis. This is a highly individualized application of this technique as an inherent part of an overall medical appraisal made by a physician who may, if he wishes use a clinical psychologist as a consultant.

Mr. GALLAGHER. This is basically a clinical situation.

Mr. MACY. Exclusively a clinical situation.

Mr. GALLAGHER. The privacy of the individual remains as part of the doctor-patient relationship?

Mr. MACY. It is the same type of relationship that would exist between a doctor and his patient.

Mr. GALLAGHER. You have touched just about every base of our concern. The question of these tests and evaluations resting in a personnel folder, which is passed throughout Government, and thereby placing the employee in jeopardy, has been one of the great concerns of this body.

Mr. MACY. I might add on that particular point, Mr. Chairman, that even the test instruments that are used for the measurement of relative ability are not a part of the individual's personnel file. They are maintained either by the Civil Service Commission or by one of the boards of examiners that conducts the examining, so that even those results are not a part of the continuing personnel record of the individual.

Mr. GALLAGHER. Thank you, Mr. Macy.

Mr. Rosenthal?

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. Macy, I want to join with the chairman in complimenting you on what I consider rather progressive, forthright views on this subject.

What I am concerned about is how these views are being implemented in the agencies and when have they started to follow your line of thinking.

Mr. MACY. To my knowledge, Mr. Rosenthal, all of the agencies that are under the competitive civil service have followed the policy that I have enunciated.

The policy in the past has been one of discouraging the use of these tests. The restatement is one of strengthening that position by prohibiting their use, and the work of this committee has called this particular condition to our attention.

However, we have a regular inspection program of the examining process and in reviewing our inspection reports, I have not found any evidence of use of personality tests by the agencies that come under civil service supervision.

If in the course of these hearings you do come upon instances where this is being done, I would be very much interested in knowing about it and working with the agencies to bring about their elimination.

Mr. ROSENTHAL. When was the restatement issued?

Mr. MACY. Last week. This was the first public recital of the statement. It was distributed to personnel officers last week.

Mr. ROSENTHAL. I think you said, Mr. Macy, that psychological and/or personality tests might be used during the course of a medical examination, and presumably by qualified clinical psychologists.

I jumped ahead a little bit and read through the statement of our next witness. In it he tells the story of a fellow who was subjected to a physical examination for a heart condition. I assume this is a rather current case, because they say in the statement that it still has not been concluded. They say that this psychological test that was administered, together with the physical examination for this heart condition, included questions to be answered "true" or "false" such as, "I love my father," "I hate my father," "I would like to be a florist," "I love my mother," "My sex life is satisfactory," "I am attracted to members of my own sex," "I believe there is just one true religion," "I am an implement of God."

Can you offer any thoughts on these instances described?

Mr. MACY. I am not able to identify either the type of situation or the test that is referred to. I certainly would like to investigate the circumstances of such a test.

May I ask, was that a test in connection with a disability retirement? What were the circumstances of the medical review and appraisal?

Mr. ROSENTHAL. It was. It says here, and I am reading from someone else's statement, so this is from no personal knowledge: "After several recent heart attacks he decided to file application for disability retirement." Does that make any more sense to you?

Mr. MACY. Offhand, Mr. Rosenthal, and again with really inadequate information, it would be my tentative conclusion that questions of the type that you read would have no relevance and would consequently be inappropriate in an examination of that kind.

It may have been, however, that there were conditions of a medical nature, other than the cardiac condition, that the doctor felt should be reviewed.

However, when that testimony has been submitted to you, and is on the record, I will endeavor to interview the witness and obtain the necessary identifying information so that this can be reviewed.

Mr. ROSENTHAL. Under the restatement which you have issued, this type of situation should not occur.

Mr. MACY. It would depend upon the nature of the particular medical review. I gather that this is clearly a medical situation. Now my statement is a prohibition on the use of any tests of that kind or any other personality tests in connection with the employment process.

It seems to me here we have a medical situation that is involved, and I think the only way I can answer that would be to have more facts with respect to the case.

Mr. GALLAGHER. Will the gentleman yield?

Mr. ROSENTHAL. Yes, Mr. Chairman.

Mr. GALLAGHER. In connection with Mr. Rosenthal's line of questioning, we have been advised that there are agencies and some

departments in the Federal Government that presently use these tests. I might give an example, there are several that we have. The Bonneville Power Administration uses these tests in determining fitness for certain operations involving promotions. Now, would your inspection program relative to merit promotions normally disclose these practices?

Mr. MACY. Yes, because we would review, in the course of our inspection of the operation of the merit promotion program, the test instruments that they are employing in arriving at judgments of relative ability.

I am not familiar with our inspection of the Bonneville Power Administration, but I will certainly look into that one, if that is one of the cases which you have. Certainly our restatement of policy would apply to the Bonneville Power Administration as an agency of the Department of the Interior.

Mr. GALLAGHER. Up until your restatement of policy, there were some major agencies using these tests that have now discontinued. For instance, State used them under certain conditions; Export-Import Bank; the Peace Corps still uses them.

Mr. MACY. The Peace Corps uses them in selection of volunteers?

Mr. GALLAGHER. Yes.

What does your agency do when a violation of this prohibition occurs?

Mr. MACY. Since the outright prohibition is new, we don't have any specific case of violation, but if we find it, we will immediately request that the agency cease the practice—terminate the practice.

Mr. GALLAGHER. Assuming that a person was applying for the position, and he was advised that the taking of this test was voluntary, and he refused to take the test, and he is disqualified on some other ground; what protection do we have for such a person?

Mr. MACY. Of course the protection that we are applying would be the prohibition of such tests except as a part of a medical evaluation and if the medical evaluation were necessary, and if it included such a consideration, if the individual was rejected on medical grounds by the examiner, under the civil service system, he could have that judgment reviewed by the Commission medical staff in order to ascertain whether the condition of the individual were in fact such as to disqualify him for the particular job.

But if it were used as a part of testing without the medical implication, this would clearly, if this were reported to the Civil Service Commission, action would be taken to nullify the disqualification decision.

Mr. GALLAGHER. Then, boiled down and stated simply, this policy prohibits the use of personality testing?

Mr. MACY. That is right, in connection with personnel decisions.

Mr. GALLAGHER. In connection with Federal employment?

Mr. MACY. Correct.

Mr. GALLAGHER. If there is a problem that is a clinical problem as to the competency of an individual, the mental competency of an individual, this then would be determined through a doctor and patient relationship.

Mr. MACY. Exactly.

Mr. GALLAGHER. And the results of this finding would not become part of his personnel file that might follow him through Federal employment.

Mr. MACY. That is correct; this would be a part of the examining file, and I might add, to make sure that I have made my point completely clear, a part of the Commission's standard setting is to look at the physical requirements of a particular job and to set certain medical standards that must be met in order to perform a job satisfactorily.

Now our process with respect to those standards in recent years has been to conduct research to provide as few jobs as possible that preclude individuals who have some kind of physical handicap. In fact, we are very proud of our program for the placement of the handicapped.

In addition to the placement of those who are physically impaired, we have two programs that have very strong emphasis at the present time for the placement of those who have recovered from mental illness and are now qualified to perform work under certain conditions and also a program for the placement of the trained mentally retarded in certain kinds of work. So we are very conscious of the use of medical judgments to extend the employment opportunities rather than to restrict them.

Mr. GALLAGHER. The Chair certainly concurs in this approach.

Mr. CORNISH. Mr. Macy, in connection with the exceptions that you have mentioned in this thing, I would gather that you don't intend to convey the impression that any mass testing program—just because they happen to utilize some psychologists, and perhaps some psychiatrists—would be approved either?

Mr. MACY. No; not a mass program.

Mr. CORNISH. In other words, this involves only a few positions and a few individual medical matters?

Mr. MACY. I mentioned one example, that tends to be dramatic, and it is our judgment, and the judgment of the FAA that we should be very careful about the medical condition of those who are involved in air traffic control work. This calls for a very thorough medical review and a part of that review could very well be to look into the stability of the individual in emotional terms.

Mr. GALLAGHER. Mr. Rosenthal?

Mr. ROSENTHAL. Thank you, Mr. Chairman.

I just want to return to the case that we were talking about earlier, Mr. Macy, and I am sure it is one that you will want to look at, as you suggested you will, because the statement says that the examination had been requested by the Civil Service Commission.

The point that I want to inquire about in this case is this: This fellow applied for disability retirement and it may well be that there was a thought that maybe he was malingering or something of that nature. There may be other reasons why a psychological test had had to be ordered, and I can follow it up to that point.

But, assuming that was the case, do you find in any way justification for the statement to be answered true or false, "I believe there is just one true religion"?

Mr. MACY. I would say that even for the purposes of a medical nature that you cite, there would be serious doubt as to the propriety of using the questions that are involved there.

Mr. ROSENTHAL. Is it also your intention as part of this restatement not only to narrow the areas where these tests can be used, but to review the questions themselves to see that they are not violative of the thing we have just been talking about?

Mr. MACY. On the matter of disability retirement, this is under the Commission's direction. The Commission sets the standards under which disability is determined. A Commission doctor must approve every disability retirement adjudication. So our standards would be applied.

Certainly, in those standards we would insure that the instruments that were used were not those that would constitute an inappropriate inquiry into the individual's views. In all cases of disability, the individual has the right to appeal and review, if he feels that the judgment is improper.

Mr. ROSENTHAL. That subject is not particularly pertinent to my inquiry. My only question is—I think I am reasonably satisfied—is that not only are you going to narrow the incidence of where this type of test will be used, but that the Commission will review its own tests as to the type of questions that they are asking.

Mr. MACY. The Commission would not prescribe any test of that kind. This would be used only by a doctor who felt that a device of this kind was necessary in order to arrive at a judgment as to fitness for duty.

Mr. ROSENTHAL. Up to that point, we are in agreement. I only want to know if you are going to permit the use of tests, including questions such as the one I referred to?

Mr. MACY. I can see instances where tests asking certain questions concerning traits and behavior might be very appropriate in arriving at a judgment, particularly in cases where there is evidence or claim of mental illness.

But to answer your question in specific terms, yes, we will be reviewing these tests as a part of our total study of this problem.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Reuss?

Mr. REUSS. Thank you, Mr. Chairman.

I, too, want to congratulate you on your superb restatement of Civil Service Commission policy. It seems to me the sun of honesty is beginning to dispel the fog of pettifoggery which has hovered around these tests for so long. You have just invited my colleague, Mr. Rosenthal, to give specific instances of where violations of this policy have occurred.

I would like to give you one that involves not just one person, but thousands. Just a year ago, the Department of Labor announced a competitive examination for some 2,000 youth counselors. They were to take part in the war against poverty program and be advisers at neighborhood centers. Some 21,000 people applied for these jobs, which incidentally, were pretty good jobs—according to the brochure, starting salaries were from \$4,200 to \$7,500 a year—and part of the examination consisted of 158 questions designed, so the Department tells me, to tell whether these young people who applied for these jobs were flexible, responsible, psychological minded, whatever that may mean, socializational—that is not my word, either—and tolerant.

Mr. MACY. That sounds ideological.

Mr. REUSS. And among the questions asked—to just give a few—true or false, “Usually I would prefer to work with women.” “I like school.” “I feel sure there is only one true religion.” That seems to crop up in these. “I think Lincoln was greater than Washington.” “I like poetry.” “I hardly ever get excited or thrilled.” “I do not have a great fear of snakes.”

"I commonly wonder what hidden reason another person may have for doing something nice to me." "Sometimes at elections I vote for men about whom I know very little about." "I very much like hunting." "Most people worry too much about sex." "Most of the time I feel happy." "When a man is with a woman, he is usually thinking about things related to her sex." "A large number of people are guilty of bad sexual conduct." "I have never done anything dangerous for the thrill of it." "As a youngster, I was suspended from school one or more times for cutting up." "I have never done any heavy drinking."

"I have been in trouble one or more times because of my sex behavior." "My home as a child was less peaceful and quiet than that of most other people." "My parents never really understood me." Et cetera, et cetera, et cetera.

From this test, as I said, some 2,000 were selected from the 21,000 who applied, the other 19,000 being left out in the cold. None of these young people were interviewed in the traditional and classic way. None of them ever saw a governmental or civil service worker asking them any questions.

While they all gave references of their minister, their past employer, their friends, their teachers, none of these references were checked prior to selection. I am told that this test of 158 questions is an adaptation of the so-called Minnesota multiphasic test which was developed 30 or more years ago, basically, from asking questions to 800 mental patients in mental institutions in Minnesota, and then comparing these with some groups outside the institutions.

Are you familiar with this?

Mr. MACY. No. And this does not come under the jurisdiction of this policy at all. These are not Federal employees.

Mr. REUSS. But I submit, Mr. Chairman, that the brochure says "Join your Career Youth Opportunity Centers, U.S. Department of Labor, W. Willard Wirtz, Secretary," and it says, about who your employer would be:

The U.S. Employment Services, affiliated State employment agencies, are the employers under the Federal-State partnership. Each State sets a salary schedule for such jobs within the States.

And then this outrageous test which was given to these people is entitled "Youth Opportunity Programs, Training Test, U.S. Department of Labor, Manpower Administration, Bureau of Employment Security." And they were in fact paid out of Federal funds. And for all practical purposes, it was the Federal Government who selected them.

I think we have here a loophole through which you could drive a team of horses.

Mr. MACY. There are many jobs in the grant-in-aid program where the Federal Government provides the money and the actual selection is performed or made by the State or the municipality.

Mr. REUSS. That wasn't true here. Here the Federal Government, right here in Washington, hired the 2,000.

Mr. MACY. They put this out, the U.S. Labor Department put this out, but these were not civil service, nor Federal employees, as such.

Mr. REUSS. But they were human beings who were hired for an essentially Federal program.

Mr. MACY. Perhaps I am drawing a defensive line. All I am saying is that these instruments were used and these individuals selected through the use of those instruments outside of the civil service system.

Mr. REUSS. What can we do, Mr. Chairman, to apply your wholly excellent and common sensible regulations to departments of Government who are normally subject to your jurisdiction, but who because the ultimate employer happens to be a State, which uses Federal funds to pay them are not technically conducting a civil service test?

It seems to me the evil is just as great, and it is just as logically at the door of Uncle Sam if there is something wrong.

Mr. MACY. It seems to me the public isn't going to make the kind of distinction I made as to responsibility.

Mr. REUSS. Don't you have the authority to tell the Department of Labor to cease and desist from using it?

Mr. MACY. Legally I do not, but certainly having had this called to my attention, by your statement for the first time, I will certainly discuss it with Secretary Wirtz. I am not familiar with the background that led the Department to use this particular method in recommending the selection of those advisers.

Mr. REUSS. Now, one final question: On the basis of the facts as I have put them to you, and I realize you are not familiar with this, but if I have my facts right, if this were a Department of Labor activity over which you have jurisdiction, this would be an outrageous case of violation of your precepts, would it not?

Mr. MACY. This would clearly be out of the ball park, as far as our standards are concerned. I don't know whether there was any other instrument used in addition to this. I assume there must have been.

Mr. REUSS. Oh, yes; there was a part of the test which had some weighting devoted to specific occupational questions, which I think is excellent, although I do have a hankering for the old-fashioned method of interviewing a prospective employee and checking up on his references. But that is another matter.

Mr. MACY. Your conclusion is correct. This would not fall within the permissive area of our policy.

Mr. REUSS. Thank you very much. And thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Horton.

Mr. HORTON. I don't have any questions at this time, Mr. Chairman.

Mr. GALLAGHER. Mr. Macy, do you have any recommendations—and I hope that the rippling effect of your statement might embrace this type of violation—do you have any recommendations as to how we might be able to bring this type of agency back into the ball park and have your statement, or your approach, to this be applicable to these agencies? We have several instances where this type of thing has occurred, most of them in these youth counseling programs that various agencies might have, and what we think is perhaps the largest violation, in the Peace Corps, where all of the volunteers are subject to this type of question and several hundred additional ones.

Mr. MACY. Of course, with respect to the Peace Corps, and also to other overseas operations, there are certain conditions involved in the kind of cultural change that service abroad represents, where it

may very well be necessary to have some kind of clinical evaluation to predict how the individual is likely to react to this kind of change. And I believe that is the basic reason for the Peace Corps' use of this device in making selections and it may be that some of the other agencies outside of the Commission's jurisdiction who have employees overseas have also used some of these devices in order to avoid, to the greatest possible extent, those who may fail because of their inability to adapt to drastically changed conditions.

When I responded earlier to your question about whether the Commission's policy covers all of the Federal Government, it covers the 86 percent that is under the civil service umbrella.

There are certain activities—such as the State Department, the CIA, and others—that are outside, where they have designed their own system.

In answer to your question as to what might be done, it seems to me that I might very well, in my capacity as the President's adviser on personnel, review all of these practices, whether or not they are a part of the civil service system, and see if we can't apply the policy generally, or at least have an explanation as to what conditions exist that warrant an exception to the policy.

My own feeling is that this is an area where administrative action is preferable to legislation. It seems to me we should be able to work this out as an administrative matter. You have put the spotlight on it, which is very helpful. It has permitted us to restate our policy in somewhat more definitive terms.

It seems to me we could go beyond that into the excepted areas and take a look at it.

Mr. GALLAGHER. Yes, sir.

Mr. HORTON. Mr. Chairman, would you yield at this point?

Mr. GALLAGHER. Yes.

Mr. HORTON. Are there any instances, to your knowledge, Mr. Chairman, where the type of questions that were just read should be used for examination purposes?

Mr. MACY. The questions that were read, I would have serious doubt as to whether there are any situations where questions with respect to religion are really relevant, or questions with respect to some of the other matters discussed. However, I am not a qualified physician, and there may very well be some medical situations where questions on a doctor-patient relationship along these lines might be relevant in assisting the individual to overcome some particular problem.

Mr. HORTON. This is the point I was trying to make. In that connection, if the type of questions that were read consist of a clinical-type examination, and they are given under the auspices of—under the care of a doctor or under the agency of a medical clinic, this would be one thing. But to fire these questionnaires out broadside for taking of examinations seems to me would not be very good practice.

Mr. MACY. I agree. And my position and the policy statement of the Commission would be that only under clinical conditions with a medical, trained medical professional in charge, should questions of this type be injected.

Mr. HORTON. Then, as I also understand your testimony, if there were instances where this type of examination of psychological examination were involved, that you would, in your capacity as

chairman, review these questions and the basis for the questioning and the controls under which they were given periodically to make certain they don't get into this type of area we are concerned with.

Mr. MACY. That is correct.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Mr. Macy, you are not recommending that doctors use this type of question. You are only stating that there may well be circumstances where the particular question—

Mr. MACY. Again, this is the matter of professional medical judgment, involving an individual in a clinical situation, which calls for this kind of information.

Mr. GALLAGHER. It is sometimes difficult for us to understand why this type of question might be pertinent to people overseas, when certainly our fighting men in Vietnam are having some problems that call for quick adaption and they are not subjected to this type of test.

Mr. MACY. That is true. Of course, the desire of the Government is to have individuals who will represent the United States as effectively, efficiently, and intelligently as possible, and to reduce to the lowest minimum possible the risk of failure. And studies have shown that Americans going abroad, particularly in underdeveloped areas, suffer a certain amount of shock in the course of adjustment. Consequently, certain stability of personality is sought, and it is in instances such as that, where there has been some research to see if there are not devices, such as the interviews, such as a clinical study, that would assist us in selecting the people who would be most effective.

Mr. GALLAGHER. Are there not other ways to make a determination other than this mass testing to arrive at the point you have described?

Mr. MACY. Again, I stress the point that if it is done, it should be done on an individual basis and with highly professional direction. It should not be done by anyone who has not had experience. It should be done by someone who knows how to interpret the information that is collected.

Mr. GALLAGHER. Mr. Horton touched on a question that causes us great concern. A recurring question on the question of religion, brings up the question of Christ, and whether or not people taking the test believe that Christ performed miracles and there are a series of some 18 to 20 questions along religious lines.

It seemed to us it puts a person in a very unfair position to have to answer these questions, if he were of the Jewish faith, or were a non-Christian. And yet, these tests are designed to fit the type of situation that the person compiling the test envisioned.

We are inclined to agree with you, that this should be done through administrative procedures and we welcome your statement that you, as the adviser to the President, might have a restatement of policy at that level to these agencies not falling under civil service. It is our hope that the Federal Government can set some standards and some guidelines which can be followed in private industry, where there is a great trend toward this testing. There are many workers who suffer the indignity and great humiliation of answering these tests.

They sometimes have to subject themselves to a lie detector examination periodically with the same set of questioning, in order to remain a shoe salesman, for example. So we feel that such a statement on the part of the President would be very welcome.

It is very heartening to us, Mr. Macy, to have you come before us today and to listen to your statement. We feel reassured that we have a person of your competence in such a meaningful position in the U.S. Government.

Mr. MACY. Thank you very much.

Mr. GALLAGHER. Mr. Romney?

Mr. ROMNEY. Chairman Macy, I would like to refer to your statement. I will read it.

In view of the character of the questions asked, if the results of personality tests are used for employment purposes, the individual's right to privacy is seriously jeopardized.

Just for clarification, you include within the phrase "for employment purposes" all personnel actions, not merely the hiring?

Mr. MACY. All personnel decisions.

Mr. ROMNEY. Then, I would like to develop this sentence just a bit further. The statement is that "the individual's right to privacy is seriously jeopardized."

Now, suppose the personality tests were given by a physician under clinical conditions. Would you not say that while right to privacy may also technically be jeopardized here, however, the needs for the public service to have such an examination outweigh the question of the individual's right to the privacy of these thoughts he is being asked to give?

Mr. MACY. Yes; that is exactly the case. It is a matter of trying to balance the needs of the service and the rights of the individual, and it is only in those instances where the necessity of the service calls for this kind of clinical assessment that there would be any justification for the use of this type of device.

Mr. ROMNEY. Thank you.

Mr. HORTON. Mr. Chairman, just one further question.

I am a little troubled about how we get to the problem of finding out about these tests. We had brought before us apparently the personality test that was given in connection with grants to States and this came out of the Department of Labor.

Now, there may be others in other departments. And I am concerned—and you did indicate that you felt that as the adviser to the President, you could perhaps look into this. But do you have any way or any suggestion that there could be a survey made by the Government to find out what tests are being given, particularly in this field, through the other departments and agencies?

Mr. MACY. I think we can rather readily review this with the other agencies that are outside of the civil service area, and involve Federal employees and rather readily review it with the Federal agencies that prescribe or suggest standards to State and local agencies under grant-in-aid.

I believe that with a questionnaire of our own, with proper questions, of course, we would be able to elicit the information that would give us a picture.

Mr. HORTON. I am concerned about the fact that this has not been done before. This question that was referred to, that came out of the Department of Labor, was one that you, I assume, were not familiar with at all?

Mr. MACY. No; I knew nothing about it, because normally, our jurisdiction wouldn't extend to that.

Mr. HORTON. I am not saying that you should, as Chairman, but I was wondering as the special adviser to the President, whether or not you feel that the time has arrived for a study to be made at the executive branch of all of these types of questionnaires, to see what is going on.

There ought to be some central place where somebody can take a look at this type of questioning and this type of examination, the conditions under which they are given, the reason for it, and all that sort of thing.

Mr. MACY. I think from the discussion here, and other testimony you have had before this inquiry, that clearly a review of that kind is called for and we will proceed with it.

Mr. HORTON. This is something that would be in your special province as special adviser to the President.

Mr. MACY. I think I can work this out with other officials that have related or parallel responsibility on this.

Mr. HORTON. We are going to be having these hearings through most of this month, I gather from the schedule that was made out.

Do you feel there would be any possibility of some sort of a report to us before our hearings are completed as to what your findings may be in this?

Mr. MACY. I would want to discuss this with my staff and with the agencies before I made any commitment. But we will try to expedite it if we possibly can and keep in touch with the chairman on our progress.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Mr. Collins?

Mr. COLLINS. No questions.

Mr. GALLAGHER. Mr. Cornish?

Mr. CORNISH. No questions.

Mr. GALLAGHER. Thank you very much.

Mr. MACY. Thank you. I appreciate being here.

Mr. GALLAGHER. The special inquiry will stand adjourned until 2 p.m.

(The following interim report was submitted September 16, 1965, by Mr. Macy:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 16, 1965.

HON. CORNELIUS E. GALLAGHER,
House of Representatives,
Washington, D.C.

DEAR MR. GALLAGHER: I have completed review of the policies and practices in the use of personality tests by agencies whose positions are wholly or in substantial part excepted by statute. As I advised the special inquiry of the House Government Operations Committee, the purpose of such a review would be to determine what steps, if any, might be desirable to achieve a greater consistency throughout the Government in the use of personality test methods.

Our review covered the following: Atomic Energy Commission, Veterans' Administration, Tennessee Valley Authority, U.S. Information Agency, Department of Justice, Department of State, and the Central Intelligence Agency.

The Veterans' Administration has advised us that they do not use personality tests in any of their personnel management programs.

Three agencies, the Department of Justice, the Tennessee Valley Authority, and the Atomic Energy Commission, do not use personality tests in employment. However, personality tests may, on occasion, be utilized in connection with psychiatric evaluation of employees in their medical programs.

In the Department of State, psychiatric evaluation is a regular part of the medical examinations procedure only in employment of applicants in highly sensitive communication work. In all other cases, psychiatric evaluation is made only when necessary by decision of the medical staff, and psychological tests are

used in connection with these evaluations in a very small number of cases. The medical program of the Department of State also services the U.S. Information Agency as well as several smaller organizations concerned with overseas employment. Therefore, the policy of the State Department applies to USIA cases.

In the Central Intelligence Agency personality test methods both with applicants and employees are used only within the medical program and by qualified psychiatrists and psychologists. Test results are part of a total medical assessment of the individual and the confidential nature of the information is fully protected.

From these facts, it appears to me that the current practices of these agencies conform closely to the policy which the Civil Service Commission applies to positions in the competitive service. In general, the use of personality tests is carefully controlled by responsible psychiatrists and psychologists under medical supervision, the results are utilized as part of an individual medical evaluation, and test results are maintained as part of confidential medical files rather than of the agency's personnel files.

In my letter to the heads of these agencies, I pointed out the desirability of Government-wide consistency in the use of personality test methods. I have no doubt that these agencies are aware of the issues that have concerned your special inquiry and will continue to oversee their personnel programs closely from this point of view.

My staff is also exploring several other issues of concern to the special inquiry. These are the use of personality tests by State and local agencies under Federal grant-in-aid programs and in contract activities supported by the Federal Government. These issues present a number of very complex questions that need thorough consideration before it is possible to decide on a constructive course of action. I would hope that we could conclude our assessment of these issues within the next several months.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

(Whereupon, at 12:25 p.m., the subcommittee was recessed, to reconvene at 2 p.m. the same day.)

AFTERNOON SESSION

Mr. GALLAGHER. The subcommittee will come to order.

The first witness that we will have this afternoon will be George Meagher, director of legislation, American Federation of Government Employees. Mr. Meagher.

(Whereupon, George Meagher was duly sworn.)

TESTIMONY OF GEORGE MEAGHER, DIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. GALLAGHER. Would you proceed?

Mr. MEAGHER. Mr. Chairman, my name is George Meagher. I am director of legislation for the American Federation of Government Employees. I have been asked by committee counsel to give you a brief personal background.

I was born in Long Island, N.Y. I am 32 years old, educated principally in the various States. My father was in service. I graduated from the Citadel in 1954, 2 years in the Army, short period with Senate staff over on the other side, and have been with the American Federation of Government Employees for 5 years.

I have been director for the past 2 years.

If I may, Mr. Chairman, I would like to just proceed with reading the statement.

Mr. GALLAGHER. Please proceed.

Mr. MEAGHER. Attempts to search the minds of Federal employees and to elicit their innermost thoughts concerning matters of great

personal significance is in our opinion, Mr. Chairman, most reprehensible.

It is, therefore, in a spirit of cooperation with this subcommittee that the American Federation of Government Employees submits this comment on one of the most objectionable practices yet developed to plague the public service.

It is our belief that the Federal Government has no more right than any other employer to require its employees or prospective employees to submit to invasions of privacy such as those which have come to light.

On behalf of Federal employees who have been compelled to undergo the indignity of questioning of an extremely personal character, we protest these practices and it is our sincere hope that the interest which this subcommittee has indicated in this highly irregular procedure will have the salutary effect of banishing it from the Federal civil service.

I might add, Mr. Chairman, Mr. Macy's comments this morning indicate that the subcommittee has had success in this area already.

The use of this so-called psychological testing is practically unnecessary and scientifically questionable in its results. Moreover, we agree emphatically with those Members of Congress and others who have questioned the legality of such proceedings and have indicated their belief that these queries transgress the personal and legal rights of employees who have been so questioned. The fourth and fifth amendments to the Constitution may well be violated by such tactics.

The ramifications and extent of this pseudopsychological investigation are undoubtedly broader than will ever be known. The impingement of personal feelings of what in so many instances amounts to a form of quackery or of unmitigated effrontery is so disturbing that women employees, in particular, are reluctant to discuss such an experience. As a result, many more instances of this shocking invasion of personal right to privacy have occurred than have become known.

I might add, Mr. Chairman, this is something we have run into. We have female members of our union who have been asked to give us this information, and although they will to us in the privacy of our office, they have absolutely refused to allow us to use their names or circumstances surrounding their case.

Mr. GALLAGHER. The Chair might state this is an experience that the staff of this committee also has encountered. So we are understanding of the problem.

Mr. MEAGHER. We have asked our members to apprise us of such instances and several examples were called to our attention. The one characteristic which is so disturbing about the type of psychological testing used is the senseless manner in which it has been practiced. This was exemplified in one instance brought to our attention. We were at a loss to understand why such a test was used unless it could have been for the sole purpose of deliberate persecution.

The employee involved has, according to our information, a heart condition. He has been hospitalized several times and during the last 2 years has been away from his work a considerable amount of time. After several recent attacks, he decided to file an application for disability retirement.

This employee was first called for a physical examination. This in no wise would have been objectionable if it had been a properly conducted examination of the man's physical condition. But when the employee presented himself for the expected physical examination he was informed by the personnel officer that it would be psychological and that the examination had been requested by the Civil Service Commission.

I would like to explain at this point, Mr. Chairman, since this was the case Mr. Rosenthal brought out this morning, I believe that the Commission did not request a psychological examination, but it is the Commission's practice in the case of disability retirement to request physical examination and that the personnel officer would have been correct in stating that the Commission required a physical examination.

I think there is some question now as to whether the personnel officer actually said the psychological examination was requested by the Commission, but nevertheless, the psychological examination was administered to the employee.

We are investigating these questionable developments and since the situation has just come to our attention we are not prepared to do more than to recite the circumstances which have been outlined by the officer of the AFGE Lodge who called the situation to our attention.

There was a further statement to the employee that was more than amazing. He was told that the psychological test would be kept very confidential and that "if you don't tell anyone, we won't."

The best recollection of the employee who was victimized in this manner is that the series of more than 500 statements included the following, which he was expected to indicate as "true" or "false":

I loved my father.

I hated my father.

I would like to be a florist.

I loved my mother.

My sex life is satisfactory.

I am attracted to members of my own sex.

I believe there is just one true religion.

I am an implement of God.

What connection such questions have with a suspected case of heart disease or with an application for disability retirement is difficult to say.

Granted that some such questions might be used in a psychological test to establish the presence or absence of a type of mental abnormality, it is beyond belief that they were used to establish the validity of an application for disability retirement, a right which every Federal employee is given specifically by the Civil Service Retirement and Disability Act.

All that was needed was to determine if the man's heart was indeed affected to the point that it interfered with the satisfactory performance of his duties. And, incidentally, the final determination of matters of this nature is by law to be made by the Civil Service Commission.

The employee was asked what caused him to imagine that he was having heart attacks and if he was closely associated with others who had heart attacks.

Even if the existence of malingering were suspected, a bona fide medical officer could have been able scientifically to determine if one or more heart attacks had occurred and if damage to the heart had occurred.

Any well-informed physician will substantiate the statement that this fact is determinable with a considerable degree of accuracy, but that the determination does not include a psychological inquiry.

We agree heartily with the representative of our lodge who informed us of this case that it was not only humiliating but degrading as well and scarcely of the type of official action that produces satisfactory relationships between employer and employees.

Another instance of psychological or personality testing that has come to our attention involved an employee who had worked for the employing agency for 14 years. For varying periods of 10 days on one occasion and 2 weeks on two other occasions this employee was hospitalized in a Government hospital, with chest pains and a back condition.

Following his discharge from the hospital, the employee was directed to see a psychologist on the staff of his agency. About a week later he was sent to a psychiatrist.

This employee later was hospitalized in a city hospital for about 10 days and was treated there by a private physician for hypertension and arthritis of the spine and muscle spasm. Earlier this year, the employee received a written memorandum from a supervisor that any further use of any sick leave would require a physician's certification.

And what about the psychological examination which had been given earlier? It was concerned with what has come to be a gruesome pattern for this type of inquiry.

The employee stated that it concerned his home life, sex life, and financial affairs. What this type of examination had to do with chest pains and a back condition has yet to be explained.

Another agency in recent months employed a consulting firm to propound to its employees various questions of the type under discussion. One such question which in this instance caused more hilarity than irritation was: "Do you like tall girls?" The significance of a yes or no answer has yet to be explained.

So far as it is known, no employee of the agency was actually required to take the test. It is suspected, however, that a refusal would not expedite the promotion of the employee who declined.

These few instances to which I have referred, Mr. Chairman, in our opinion clearly indicate that a most disturbing practice has been developing in the Federal service, a practice which is not only shocking in its possibilities but one that is plainly illegal and completely unworthy of the Federal civil service.

This sort of inquiry is, in our opinion, indefensible. If it were characterized in some instances only by its stupidity, it would be undesirable. The type of questioning and the insistence and compulsion which have typified such testing are evidence of a sadistic viewpoint rather than a trustworthy effort to devise tests which can serve a good purpose.

We urge the subcommittee to recommend firm and positive action to end these practices.

Mr. GALLAGHER. The Chair wishes to thank you for a very excellent statement and also to thank you and your organization for the cooperation you have extended to the staff in the past.

Would you like to state for the record what agency was concerned about the tall girls?

Mr. MEAGHER. Yes, sir; I have the agencies for all of them. The tall girls was Bonneville Power.

Mr. GALLAGHER. That is the same one that we have come in contact with. We called this to the attention of Mr. Macy this morning.

Mr. MEAGHER. Yes, sir.

Mr. GALLAGHER. Mr. Horton?

Mr. HORTON. Looking at your statement, you have set forth a few instances and you have also indicated that there are some that you are not at liberty to disclose because of the request of the employee involved. But do you find in your duties as Director that there are quite a number of these cases, or are they on a small scale?

Mr. MEAGHER. Very few have come to my attention, sir. I went to our department of employee relations which normally would handle grievances along these lines. I have talked to them and they tell me that 2 years ago we had no such case. They are currently handling about 15. Unfortunately, none of the people are willing to talk. So I can only judge by that; we went from none to 15 in 2 years.

Mr. HORTON. In at least 15 cases that you are handling, they came to you as a result of the employee's initiative rather than the organization making any efforts to find out about it?

Mr. MEAGHER. That is right, sir. These came from the employee.

Mr. HORTON. You don't have any directive or request of employees to furnish you information about this? In other words, you've made no overt action to find out, taken no overt action to find out about these type of instances?

Mr. MEAGHER. Yes, sir. We have. When we heard of this committee's interest, we put out a news service bulletin to our people asking that they refer such cases to us. I believe that was 4 weeks ago, sir, and we haven't had a response.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Mr. Rosenthal?

Mr. ROSENTHAL. No questions, Mr. Chairman.

Mr. GALLAGHER. Mr. Reuss?

Mr. REUSS. Just one question. Do you see any difference in the abrogation of the kind of psychological tests as a condition of employment, which you have been telling us about in the case of a straight civil service employee as opposed to a Federal agency conducting an identical test with respect to people such as those under the youth opportunities program who would technically be employed by a State or locality rather than the Federal Government?

Mr. MEAGHER. As a union, sir, we represent only the career civil service employee. I share your concern with the people who are not professional civil service. I am sure if I were representing those people I would be arguing just as strongly for them as the people I do represent.

Mr. REUSS. Thank you very much.

Mr. GALLAGHER. How many people do you represent?

Mr. MEAGHER. About 160,000, sir. It was 158,000 2 months ago, so I would guess about 160,000.

Mr. GALLAGHER. Mr. Horton?

Mr. HORTON. I was just going to ask, are there any other incidences you know of, of other types of invasions of privacy of employees?

Mr. MEAGHER. No, sir. We have asked on wiretapping and some of the other techniques. We have asked our people to tell us about them. There is nothing that has come in that proves anything yet. There are just suspicions and these need to be run down.

Mr. HORTON. How about snooping and peepholes?

Mr. MEAGHER. Not in our service. This is common in postal service, but we don't find too much in regular career civil service.

Mr. HORTON. Are most of your cases confined to applications for employment or did you mention one had to do with disability?

Mr. MEAGHER. No, sir. Most of the cases that come to our attention would be people already on the rolls, and they are applying for retirement or trying to get a promotion. The new people normally don't join unions. They join after they have been on the Federal rolls for some time.

Mr. HORTON. I was just wondering, if when they made their original application, if you had heard from any of your employees subsequently that they had this type of test.

Mr. MEAGHER. No, sir, I don't know.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Mr. Cornish?

Mr. CORNISH. Mr. Meagher, don't you find that Federal employees are really very reluctant to bring this issue to your attention or even to the attention of officials in the Government system where they would normally take such complaints?

I am thinking of people who are afraid of being labeled trouble-makers, for one thing, because they have careers in the Federal service they want to pursue, and knowing that when they make a protest of this kind, this more or less puts that label on them.

Mr. MEAGHER. Yes.

Mr. CORNISH. Is this an accurate impression?

Mr. MEAGHER. Yes, sir. I think this is true in the cases that we have—Mr. Horton asked about—I think it is true with those people and they are seeking not to be identified and the fact that their cases were sent to the national office rather than through their local lodges, that they felt by our handling it and trying to represent it at the level of Washington, it could perhaps avoid labels being placed on them locally.

Mr. CORNISH. The inclination is just to answer questions and shut up and keep quiet; isn't that what it amounts to, because it has become a condition of employment or promotion in many cases?

Mr. MEAGHER. It would appear that way, sir, from what we know.

Mr. GALLAGHER. Mr. Romney?

Mr. ROMNEY. No questions.

Mr. GALLAGHER. Thank you very much.

Mr. MEAGHER. Thank you, sir.

(The following was subsequently received for inclusion in the record:)

NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
Washington, D.C., December 1, 1965.

Mr. NORMAN CORNISH,
Chief of Special Inquiry, House Committee on Government Operations,
Rayburn Building, Washington, D.C.

DEAR MR. CORNISH: Reference our recent telecon, I am herewith submitting the NFFE statement on the use of psychological questionnaires and personality tests for incorporation into the hearing testimony.

Your interest and cooperation in this matter and Congressman Gallagher's inquiry into the subject are commendable. We are heartily in accord with Congressman Gallagher's statement that "there is a limit to the amount of information that one ought to possess. We don't have the right to probe what a person's thoughts may be in some future time in life."

Thanks again for the opportunity to NFFE to present its thinking on the subject.

Sincerely,

N. T. WOLKOMIR, *President.*

[Enclosure]

STATEMENT OF NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL FEDERATION OF
FEDERAL EMPLOYEES

I thank the chairman for this opportunity of presenting to the committee the NFFE discussion on the use of psychological-personality tests on Federal employees and job applicants.

The NFFE is the oldest and largest independent general union of Federal employees in Government. We span practically every Government agency and thus have much interest in this inquiry. Our interest, however, must be restricted to the reaction of our members to the use of "questionnaires" and "tests" as applicable to their environment. At the last biennial convention of NFFE held in September of 1964, delegates therein assembled were much concerned with this problem as indicated by the resolutions introduced (Nos. 10, 17-25, 28, 29, and 601). A master resolution was adopted which stated that "the objective of the merit promotion program should be to fill positions with the best qualified employees using as No. 1 ranking factor training, experience, and job knowledge, and as No. 2 ranking factor a written aptitude test based on specific job requirement."

The resolved as adopted stipulated that "the rating of merit promotion program papers shall not be done at the agency in which the vacancy occurs, but shall be rated by the CSC region in which the agency is located and the register shall be established." In addition, there was much interest in the use of "testing" for recruitment purposes.

Since that convention, many locals of NFFE and individuals have written and protested most of the "instruments" being utilized by Government agencies. All arguments presented claimed divergence from the basic merit principle concept. It is essential, therefore, to review the NFFE stand and make clear the basic element of this concept. In order to provide a responsive public service, the merit principle and, thus, any "questionnaires or tests" used, should augment the following precepts:

(1) Do they help isolate with validity and reliability the best qualified people to perform the work of the Government?

(2) Do they provide stability to a "career" work force, considering the complexity of assignment and regardless of changes in political administration?

(3) Do they augment "the equality of opportunity" facet, open to all citizens of our country regardless of religious beliefs, race, creed, color, or politics?

These are the criteria against which all "tests and questionnaires" should be weighed in order to make Federal civil service "representative" with individuals selected or promoted on the basis of ability and fitness. In order to abide by this creed, former Chairman of the CSC, Harris Ellsworth, once stated that "a number of basic principles which underlie the way in which we go about our daily job" are involved as follows:

(1) All eligibles must have an opportunity to apply.

(2) All standards evolved must be applied impartially using realistic and reasonably valid standards.

(3) Standards should relate only to ability and fitness.

(4) Ranking should be on the basis of ability and selection from among the best.

(5) Knowledge of results and opportunity for administrative review should be available to any individual who believes that the process has not applied properly in his own case.

It is in line with these tenets that "tests and questionnaires" should be reviewed. It is because of violations of these tenets, in the eyes of our complainants, that we emphasize caution in the use of certain "tests and questionnaires." Our members, in varying numbers and degree, have stated violations of all five principles outlined.

The NFFE considers the statement made by John W. Macy, Jr., Chairman of the Civil Service Commission, in previous testimony, generally in consonance

with the tenets advocated, together with the attachment on "The Appraisal of Personal Characteristics in the Selection of Federal Employees Under the Merit System," as in agreement with the statements made. We, however, consider that there is quite a distinction between situational tests, paper and pencil tests, questionnaires, personality projective devices, ratings by supervisors, and interview procedures.

We feel that personality questionnaires are of use in a guidance situation where the client has the maximum to gain by telling the truth. They are of little or no value, other than of research, for any other purpose. Interest questionnaires, on the other hand, have considerable value in a vocational guidance situation. They have been shown to measure to a fair degree job satisfaction.

Although we do not claim to be clinical psychologists, we venture to make some statements about the clinical use of various personality tests. We feel that the ability to use clinical personality tests is more of an art than a science. No single projective device has very much reliability and validity by itself. On the other hand, the use of a number of projective devices to give indications have been shown to be valuable by those clinical psychologists that really know how to use them. We do not think that all clinical psychologists have the same efficiency in using these. The fault is not in the test as much as it is in the individual evaluating the results. In medicine we have a number of tests that have relatively no reliability but nonetheless are valuable to us in assisting the physician in diagnosis. The basal metabolism test is one such example.

We believe that in the use of medical examinations for fitness for duty and subsequent actions leading to separation, reassignment, or disability retirement, that the standards set must be very relevant to the specific job of the incumbent. We feel that the medical examiner should be given a statement of expected standards of performance so that he can make a valid determination as to the ability of the individual to perform it from a physical fitness standpoint. Concerning appraisal of individuals for hiring and promotion, the NFFE feels that although our present procedures are fairly good, we can greatly improve these by developing more and better performance measures. These, however, we realize, are quite costly to develop and administer. But the cost of inefficient Government is more expensive.

There has been much concern and publicity on the subjects of "personality testing" and "invasion of privacy" by Government snooping. The NFFE feels that much injustice is done to both parties concerned. As a result, the Government employee is caught in the middle on the horns of a dilemma. There are case studies on hand to emphasize the injustice to those we consider qualified and capable individuals, who are restricted in promotions and appointments because of "test scores" subjectively rated by amateur administrators and interpreters. At the same time, "the right of reasonable inquiry" also must be protected. Medical service would never have developed to its present sophisticated state without research. The issue and problem at hand is to develop a sensible policy so that incumbents are protected without impeding scientific research, even if some controversial matters are involved. Individuals should be carefully selected, should be well qualified, and all "testing" should be validated in light of the criteria previously itemized.

The committee's exposé on such test devices as the Minnesota Multiphasic Inventory containing questions on sex and religion that invade "privacy" has merit, but we ask the honorable members to also consider Acting Commissioner Ianni's announcement that USOE will "carefully review all questionnaires submitted to it, to prevent injuring public sensitivities in such matters as the challenging of established morals, the invasion of privacy, etc." Protection against capricious and self-proclaimed researchers is essential and the committee should be commended for its forthright investigation during these hearings and research. Less responsible Government officials are thus forewarned. The Federal support of research and Government operation warrants a "protective sphere." Measuring devices, like statistics, when misused, are harmful and destructive.

Wholesale testing should not be used, since it has proven to be conducive to misuse and reprisals. It should be limited to predetermined and needed areas.

The NFFE, in conclusion, offers the following constructive suggestion. Considering the high cost of contracting "testing and questionnaire" devices, would it not be to the Government's advantage to set up a centralized test development facility within its own structure (i.e., CSC or USOE). Staffed by competent and professional test construction specialists with supporting statisticians and expert analysts, performing all functions, better measuring and test administration applicable to functions concerned, would probably result at less cost. Done within the Government, checks on validity and reliability could be accomplished

until selected criteria are satisfied; automated systems are available to overcome the error problems and outside contaminating influences could be curtailed. A within-house capability could lead to expedient action and there would be less tendency to look into your own glasshouse because of mirror reflection. Unions acting as sounding boards could serve in an advisory or consultative capacity, speaking empirically and pragmatically.

The National Federation of Federal Employees thanks the committee for this opportunity "to invade the privacy of your distinguished committee."

Mr. GALLAGHER. The Chair would like to call Martin Gross.
(Whereupon, Martin L. Gross was duly sworn.)

TESTIMONY OF MARTIN L. GROSS, AUTHOR OF "THE BRAIN WATCHERS"

Mr. GALLAGHER. The Chair welcomes you, Mr. Gross.

Mr. Gross is the author of the book "The Brain Watchers," a study of mind probing, which I understand took some 3 years of extensive research.

I welcome you on behalf of my colleagues to the inquiry. Your book has done much to arouse public concern over the issue which this subcommittee is investigating.

We are very happy to receive your request to testify and if you did not make such a request, we were going to invite you to come, because I think your book should be required reading for all of those who advocate this type of ordeal by humiliation and indignity.

I believe your views have already contributed a great deal to the American public's understanding of this problem and I am sure your testimony will make a significant and very important contribution to this study.

Would you please proceed?

Mr. GROSS. Thank you.

My concern with the subject began routinely as a working journalist when I did a magazine article on the subject and then was asked by a publisher to do a book. As a full time journalist I have written on a great many subjects, national affairs, defense, health and education. After I got into the book a year or so I realized that the subject had a great deal more importance than I had originally assumed, and that it went deeper into the fiber of our country than I had originally thought.

I have prepared a statement which I will proceed with, and then I have some additional comments to make.

Mr. GALLAGHER. Please do.

Mr. GROSS. I would first like to congratulate the Members of Congress for their interest in the invasion of privacy that has been perpetrated by various groups intent on probing our psyches for their profit, material or otherwise. During the more than 3 years that I investigated personality testing in this Nation, I was constantly amazed at the callous indiscretion of testers in seeking out the most sacred details of a person—including his sexual life, religion, political beliefs—as if it were necessary to eliminate human dignity in order to be employable in our country.

Commonly administered tests ask such impertinent questions as:

"Do you often feel just miserable?"

"Is your sex life satisfactory?"

"About how many people have you disliked (or hated) very much?"

(a) None; (b) 1 to 3; (c) 4 to 10; (d) 11 to 50; (e) over 50."

Incidentally this is Washburne Social Adjustment Inventory which is very popular in many corporations. Answer (a) and (b) are acceptable. Should you hate four or more people, however, you are in difficulty.

Mr. REUSS. I was thinking, is this the age of the people you hate or number of people you hate? [Laughter.]

Mr. GROSS. The assumption is based on the supposed scientific evidence that Mr. Washburne thought that number 4 was a nice number. This is what psychologists call a priori, a priori being Latin for the American hunch.

Another question: "I believe I am being plotted against (True or False)."

"I dream frequently about things that are best kept to myself (True or False)."

"I am a special agent of God (True or False)." This is from the Minnesota Multiphasic Personality Inventory, which is, according to the National Industrial Conference Board, the most popular test in American industry and, I understand, a very popular test in those agencies of the Government where they do testing.

Mr. GALLAGHER. It is a very popular test in the Peace Corps.

Mr. GROSS. "I often go to cheaper neighborhoods to do my drinking (True or False)."

"I need a drink or two in the morning (True or False)."

"I have diarrhea once a month or more (True or False)."

"The top of my head sometimes feels tender (True or False)."

"I believe in a life hereafter (True or False)."

Job applicants and others are asked to tell what they see in ink blots—that is the famous Rorschach test commonly used in industry. It is also used in psychological testing when the personnel people or those responsible feel that a deeper clinical probe should be attempted. Often this will be done under the aegis of a clinical psychologist or a psychiatrist, perhaps, but most often a psychologist.

The applicant is asked to draw a picture of a nude woman; to create stories of supposed personality import from drawings of a man playing a violin, or an unclad man climbing a rope. Other tests ask testees to check off adjectives that they believe describe them, including many self-incriminating phrases.

We should never underestimate the extent and power of personality testing in every phase of society; ministers of the clergy are chosen through personality testing, as are executives, pilots, salesmen, and I understand, certain Federal employees. It is used in the selection of medical students, and college entrance groups have been experimenting with its use in the selection of regular undergraduates.

Schoolchildren are plagued with the most intimate questionnaires about themselves and their families, under the guise of "guidance." Even complex psychological tests such as the Rorschach ink blots and other so-called projective instruments are used on schoolchildren without the permission, or knowledge, of parents.

Mr. Fred Hechinger of the New York Times devoted his Sunday column to a chapter in my book which dealt with personality testing in schools.

I live in Manhattan and parents in my neighborhood called the principal of the school stating that they were horrified at the thought that personality tests were used in the school system. I did not

mention the New York City school system, who had told me the tests were not used in the city. I had investigated many suburban areas where they admitted they were used, including Port Jefferson and other areas in Long Island. However, the principal told these parents not to be concerned and that everything was fine and they would not think of using such instruments.

My daughter who is a student in the school, within several months after this, received a personality test at Public School 6 and under my instructions, she refused to take the test. She was yelled at by the guidance person who said, "Get out of the room and go to the library." So that very often, in the field of psychological testing, I found a great many untruths stated, often because of ignorance and often because of pure subterfuge. The principal in this case was ignorant of the activities of guidance counselors.

The tests are used routinely in various phases of our society in making the decision of whom to upgrade, demote, or fire. Men with great longevity of industrial service are often discharged because of these tests.

After full study, I have two basic objections to the use of personality tests: their inaccuracy and their immorality.

Before I proceed into detail on why personality tests do not successfully predict the behavior, psychological attitudes, or performance of an individual, I would like to quote three other experts whose names are familiar to the professionals in the field, and to many of the public at large. Dr. John Dollard, professor of psychology at Yale University, in reviewing my book in the New York Sunday Times Book Review, states as follows:

There may be exceptions unknown to me, but generally speaking, projective tests, trait scales, interest inventories or depth interviews are not proved to be useful in selecting executives, or salesmen, or potential delinquents, or superior college students.

Dr. Henry S. Dyer, vice president of the nonprofit Educational Testing Service of Princeton, N.J., has also stated his view that personality testing is without valid scientific theory or method. Says Dr. Dyer:

I take a dim view of personality tests and I think the general public is being much too frequently taken in by the mumbo-jumbo that goes with them. The inventories, the projective tests—all of them—are scarcely beyond the tea-leaf reading stage.

One of the most surprising criticisms of the accuracy of personality tests comes from Dr. George K. Bennett, president of the Psychological Corp., the publisher or distributor of some of these tests. They are the distributors of the Minnesota Multiphasic Personality Inventory test. Writing in the Fifth Mental Measurement Yearbook, which contains reviews of test efficiency, Dr. Bennett states:

Over the past 40 years a great number of self-descriptive inventories have been constructed and tried out. This reviewer is unable to recall a well-established instance of useful validity for a class of questionnaire against a criterion of occupational success. (p. 30.)

This is the president of the corporation that publishes and distributes some personality tests.

Mr. GALLAGHER. How does he justify the statement?

Mr. GROSS. Dr. Bennett, whom I interviewed on two separate occasions in his office, is caught in a tight vise. The difficulty is

that Dr. Bennett as a psychologist and a man of integrity, does not appear to believe, as stated on many occasions, that the personality tests are very accurate. He is also president of a corporation which is, as I understand it, cooperatively owned by a group of practicing psychologists, who earn income from these tests. The ostensible purpose of these tests, in I think, the view of the corporation, is that they are basically research instruments. Should a professor of psychology at a university want the test, they would sell it to him. They would also sell it to any qualified psychologist who ostensibly has ethical procedures and supposedly follows these ethical procedures.

In my book I raise the question of the ethical procedures in use of tests. There is a technique within the field of psychology, in which clinical psychologists will use projective instruments without ever seeing the individual being tested. I saw this happen on the spot in a testing firm in New York. A clerk gives the projective instruments, such as the draw-a-man test, and the clinical psychologist, licensed by the State of New York, will make a psychological judgment of the mental health of the individual from this piece of paper, never having seen the applicant. This is called blind analysis, and is very common. Blind analysis is a technical term they use, and I would think that in terms of commonsense, that it is very unwise.

Mr. GALLAGHER. Before you go on, Mr. Gross, perhaps you would like to state how they earn income on this non-profit-making—

Mr. GROSS. Psychological Corp. is a profitmaking group. Educational Testing Service is nonprofit. Psychological Corp. in New York is a profitmaking group and they test for many firms.

Mr. GALLAGHER. How do they earn the income?

Mr. GROSS. From many things. For a while McGraw-Hill, a publishing company in New York, for example, had a testing program for beginning editorial executives, and I understand they tested them. They test for a great many people in New York. In addition to tests of this type they have other more valid tests such as mechanical efficiency tests. Dr. Bennett himself is author of a test on mechanical aptitude which is used by industry. Although they are not exceptional measures of accuracy, there is some validity to testing a person's mechanical aptitude.

In addition to these more objective tests, they do publish, distribute, and use for profit, personality tests, a type of test which Dr. Bennett personally has stated he thinks are not very good, as I have quoted.

Mr. GALLAGHER. He doesn't preface the adequacy of the test by his own remarks?

Mr. GROSS. Definitely not. As a matter of fact he doesn't sell the tests. Being president of the corporation, he doesn't have to go on the firing line. A salesman has to go out and sell them—if they have salesmen. I don't know. I suppose some clients come to the corporation. The whole field of psychology is in a quandry in regard to personality tests, because every profession likes to have an additional tool. A doctor likes the electrocardiogram, and these tests, if they were valid, would give the psychologist a great additional tool for his status, and prestige and profit. The difficulty is that the more astute psychologists know that the personality tests are no good. The less astute don't know or don't care. A man like Dr. Bennett, of course, is in a most unfortunate position because he is smart enough and has enough integrity to say they are not accurate, but yet is

president of a firm that uses them. I have nothing but sympathy for his position.

What the gentleman was saying, in simpler language, is that the results of a typical question-and-answer personality test cannot predict the behavior of an individual, nor can the traits be matched up to those propounded as ideal for any job in question.

The results of many careful experiments that have attempted to validate personality testing have all proven the tests to be worthless. The United Nations, under its former Director of Examinations, Dr. Eugene W. C. Shen, conducted a vigorous trial of the Rorschach ink blot test, and another famous projective personality instrument, the draw-a-man test, and found that they failed miserably in predicting the work performance or behavior of the United Nations Secretariat. During World War II, Army psychologists gave a full series of personality tests to aviation cadets, tests which then failed to predict the service success or failure of the cadets. This was conducted by Dr. Flanagan, the head of AIR, a testing company working out of Pittsburgh. At the time he was, I believe, chief psychologist for the U.S. Army Air Force.

Colleges, including the University of Minnesota, have attempted to correlate student scores on personality tests with their emotional behavior on campus. The result was that students labeled by the test as having pressing psychological problems proved to be well-adjusted collegians, and vice versa. Numerous attempts to correlate academic achievement against personality tests have been failures, including the Government's own personality project—Project Talent, which has invaded the psychological privacy of students throughout the country with the taxpayer's own money.

A copy of the personality test, Project Talent, was sent to me by HEW at the time it was being given to approximately half a million high-school students around the country. It was a conventional personality test, similar to the ones used in industry and given to students at that time.

Mr. GALLAGHER. To your knowledge is this test still being used by HEW?

Mr. GROSS. I think Project Talent was a one-time project. But scores have since been correlated on various personality trait scales, typical emotional stability scales, and so forth.

The reasons for the tests' failures are numerous, and perhaps I can cover some of them later in my testimony. The most important general fact to consider is that we have almost no information on how mental health relates to personality test scores, and attempts by management or the Government to use them for this purpose are unscientific and dangerous.

In regard to my second point, that of immorality, I would like to raise the question of discrimination. Personality tests, in my opinion, are the newest pseudoscientific form of prejudice. With the enactment of legislation and the increasing awareness of the community, many of our older racial and religious prejudices are dying. However, the false discipline of personality testing is attempting to bring it back by stating—through unreliable test scores rather than proven behavior—that someone is "neurotic," or "potentially schizophrenic," or "maladjusted," or "introverted." Is it any less immoral to discriminate on such false invented criteria than it is to punish some-

one for his race, creed, or national origin? In addition, of course, many of the tests contain items of religious and other beliefs. I would think that potential victims of this new discrimination need equal protection under our FEPC laws.

In schools throughout the Nation, personality tests are inflicted on unwary youngsters—often, I believe, with the help of Federal funds—and many such children are often singled out for special guidance and psychological attention that can be damaging.

I might add here that I am not sufficiently familiar—perhaps you gentlemen could help me—with the aid that is given by the National Defense Education Act enacted in the early 1950's, I believe, for the training of guidance counselors for schools. The vocational guidance counselor, generally called the guidance counselor, throughout this country is usually the amateur psychologist on the spot who does the testing of children in schools.

As part of this training they do psychometric and personality testing, which is very typical in many schools. In my article in *Life* magazine I quote the exact number of schoolchildren who have taken personality tests given by guidance counselors trained, I believe, with the help of Federal money. They use tests such as the Kuder & Strong vocational interest tests, which try to predict the child's career by asking questions about their interests. In the case of the Kuder, they ask simple questions, such as: "Do you like to see how a typewriter is made in the factory?" "Do you like to raise food?" "Do you like to read books?" From the last question, for example, they try to gauge the child's literary interest.

These tests, in later validation, have proven incorrect. Children's vocational interests in 8th, 9th, and 10th grades do not correlate positively with the occupations they later take up. Otherwise everybody would be a marine, a nurse, or fireman. Young children's interests change, and in fact almost half of all college students change their majors in college, so that we know that real vocational interest is a growing, not a permanent thing. For an immature, inexperienced guidance counselor to use test scores of this type to inform parents of vocational interests is unwise. Parents often, I found, think that they are not interest scores, but actually ability scores. So, if a daughter scores high in music, the parent thinks perhaps she should be a musician even if the child is tone deaf.

More complex tests are being given by guidance counselors, sometimes in school courses called human relations. In these they often use the Minnesota Counseling Inventory, which is sort of a scaled-down Minnesota multiphasic personality inventory for children. It has similar questions and the child has the same chance of coming out as being neurotic or emotionally disturbed.

In many schools this is used as a method of screening out so-called trouble children, children who have given no overt instances of behavior problems, delinquency, or truancy. Normal children in class are singled out, not for behavior, but for their test scores. They are first sent for guidance, then should the guidance counselor think so, to the psychologist, if there is a school psychologist. As a matter of fact, in the State of New York, the psychology law, which asks for specific graduate training and experience, excludes the school psychologist. The school psychologist in the State of New York need not be a psychologist. You think it would be quite the opposite way

around. All he needs is a bachelor's degree and credits toward a master's degree. Even though he may never have practiced psychology in his life, many of them use complex instruments, including the Rorschach ink blot and others on schoolchildren. Supposedly they can't give therapy by law, but they can make diagnoses. It is very difficult in the field of psychology to separate diagnosis and therapy.

The tragedy of the schoolchildren is a vast one and I suppose the Government can only help in not allowing the use of Federal funds for the study of personality testing or use of personality testing in school. Much of the probing of schoolchildren is an indecent invasion of privacy, as indicated by such true-false test questions as "There is very little love and companionship in my home as compared to other homes," or "Are the people in your home too quarrelsome?"

They ask sex questions of young girls, about menstruation, their interest in boys, and even more probing questions. I doubt that this was the educational intent of the local American taxpayer in supporting a free system of public education, or of the national taxpayer whose Federal taxes will go into Federal aid to education.

I believe that the personality tester has had his way during the past generation because of a shocking supineness of the American public, a weak yielding to those who would rob us of our heritage of privacy and individual dignity. It is amazing to me how easily we have relinquished our constitutional rights of protection against search and seizure when it applies to our minds instead of our properties. Apparently in contemporary America there is something more sacrosanct in the inviolability of our apartments and split-level castles than in the private nobility of our brains.

The public needs help from the U.S. Congress in this dilemma of attempting to protect his honor while being pressured from without, by employers, schools, and other agencies. I believe that a law prohibiting the use of personality tests in the selection and upgrading of Federal employees would be an admirable first step that would serve as a model to the Nation. I also believe such legislation should extend the same protection to employees covered by Government contracts to industry.

Many large space firms, I have found, and I discuss some of their work in my book, use personality testing for screening of engineers, technicians and management people, et cetera, and most of these firms exist almost exclusively on Government money.

And even broader protection for the public would be the prohibition of the expenditure of direct Federal funds, such as Department of HEW grants and aid, to be used for the testing of personality. The ultimate that we could ask of you gentlemen would be the withholding of Federal aid for any institution—whether medical school or grade school—with the inhumanity to subject their personnel to inquiries about their sex lives, frustrations, family, dreams, politics, religion, and aspirations.

If a psychologist developed a personality test that claimed to determine the suitability of Congressmen for their jobs, I am sure that you gentlemen would reject such a test and its pseudoscientific judgments. And you would be right.

This Republic was not built on the limiting of our people with prior decisions of their suitability based on idle rumor, or the opinion of

so-called experts. Permitting the false discipline of personality testing to be our measure of a man can only endanger our most prized traditions of privacy and unlimited opportunity.

Mr. GALLAGHER. Thank you very much, Mr. Gross. I think your next to the last paragraph strikes a note close to home.

We would like to ask you some questions.

Mr. GROSS. If you have the time, because this is a very technical subject—after you ask the questions—I would like to give you a short impromptu technical insight into why the tests are not accurate in determining personality and why they are not accurate in determining mental health.

Mr. GALLAGHER. Perhaps you would like to do this right now.

Mr. GROSS. Do you think that would be best?

Mr. GALLAGHER. Yes.

Mr. GROSS. The first point to make is that the question and answer tests are group tests; that is, the original research intent of these tests was to measure, for psychological research, the different attitudes of large groups, so that if you tested 5,000 children in the Western States, and 5,000 children in the Eastern States, you might possibly determine some regional or group differences in attitudes toward whatever you want to measure—interest in sex, books, companionship, or sociability.

After these tests were developed, it became almost impossible to stop psychologists and personnel people and corporations from using them, because of what psychologists call face validity. That is, if someone asks a question that seems to indicate nervousness, and you say yes, it is easy to make an assumption of nervousness. The face validity of some tests seems high. That is, a tester asks a question, "Do you wake up in the middle of the night?" and the person answers "Yes." The psychologist then says, "Well, that is an obvious indication of nervousness."

The reasons why the tests are failures in determining true emotional behavior is indicated by a great deal of research. First, some people are very candid on tests and will give you correct answers. Some people are not candid at all and will give you the answers that they think you want. Other people don't understand what the questions mean, and every person has a different interpretation of it. This is all mixed together in what they call the "norm." Then you take the test as an individual and you are graded in your variation from the "norm." You are graded in a variation from something that made no sense originally because it was apparently a mixed response.

For example, Dr. P. Eisenberg, a psychologist, took the question "Do you want to be alone," which is a question that appears on many personality questionnaires, and he asked people to write an essay about what they meant about "wanting to be alone." Of 219 students, 55 said they wanted to be alone when they had work to do. You would assume that they would all answer the question in the same way—yes, no, or question mark. They all meant the same thing—but one-third said "Yes," one-third said "No," and one-third said "Question mark." The actual physical response to a question of this type has almost no psychological or semantic meaning.

Applying the tests to individuals is completely outside the statistical possibilities of a group questionnaire, and all question and answer tests are group questionnaires. Any attempts whatsoever to use a group

questionnaire on individuals is improper and completely unscientific. It is witchcraft or alchemy.

For example, the MMPI, which is quite commonly used, was created by giving the sample questions to people who were mentally ill in the University of Minnesota Hospital, and to visitors to the hospital. The testers could find no question with total differentiation between normal and abnormal, but there were some that were answered somewhat differently. They made those a permanent part of the test. There were a total of 566 questions. The test had very awesome scales—schizophrenic, psychopathic deviates. If you scored high on the schizophrenic scale, that would supposedly mean you tended toward schizophrenia.

Professor Anastasi, who is a psychologist at the University of Fordham, says that a high score on schizophrenic does not mean that you are schizophrenic or tend toward schizophrenia.

More important, the authors of the test themselves, in talking about the psychotic profile, warn not to take it too seriously. On this test, if you score 70 on the scales rather than the norm of 50, it is supposedly a psychotic warning. This is a determination of mental health being made by a question and answer test.

Authors of test, in the manual of the MMPI, state, and I quote: "It should be continually kept in mind that the great majority of persons having deviant profiles are not in the usual sense of the word 'mentally ill,' nor are they in need of psychological treatment. Having no more information about a person than that he has a deviant profile, one should always start with the assumption the subject is operating within the normal range." This means, of course, that the test has no value in individual distinction. This was proven at Northwestern University when 39 percent of the students proved to score "psychotic" on one scale of the MMPI by getting 70 or more.

Later tests at universities showed the MMPI's so-called "norm" of 50 was actually "60" at many schools. Using this concept of a norm is meaningless because areas differ, people change, and these are only small samples. Using deviations from the norm is also meaningless. In addition, the authors state that the names of the scales themselves are not meaningful. As a matter of fact, the MMPI authors have reportedly stated they are very sorry that they named these scales because of the misinterpretation of the words, and believe they should have numbered them and not given them any names whatsoever.

The names given to scales, such as neuroticism, alienation, and in the Edwards test, autonomy, are inventions of the author.

Your definition, my definition, and psychologists' definitions of "neuroticism" may be entirely different than the test author's, yet use the same words to name a scale.

For example, Mr. Bernreuter, who is author of the Bernreuter Personality Inventory Test has many questions, including one, "Do you daydream?" If you answer yes, you are penalized on the emotional adjustment scale. This idea came from Mr. Bernreuter's personal psyche. He thinks daydreaming is neurotic. I think daydreaming is essential to normality. Other psychologists agree with me.

Two psychologists make up two different tests, use different questions, but the same name "neuroticism." Yet they mean entirely different things by it. For example, the word "autonomous," which means free will, the free action of an individual, is used on the Edwards

Personal Preference Schedule. There is a test called the Rosenzweig Picture Frustration Test, which has a scale called "conformity," the opposite of "autonomy." Scores on the Rosenzweig, for conformity, and scores on the Edwards for autonomy, correlate positively. That is, the same. So that on two opposite scales, the same person can be a conformist on one, and autonomous on the other.

Further, Mr. Edwards' definition of "autonomous" is different than the Oxford Dictionary. Mr. Edwards, in defining autonomous, uses the phrase "to avoid responsibilities and obligations." But the "autonomous" person assumes his personal obligations well according to our definition.

The words that testers use to name trait scales are simplistic. They use words such as "honesty." They may have a meaning in their own mind for honesty, but psychologists are in no agreement about what the word "honesty" means because it is a multidimensional trait and not a simplistic trait.

You can be honest with yourself; with your God; with your conscience; with your Government; with your wife; with your taxes; with your expense account. It is impossible to use this word "honesty" simplistically unless you mean "theft." But tests using the word "honesty" seldom measure the question of theft or concern themselves with it.

Further, every psychologist invents a series of traits that he says comprise the human "pie," yet no psychologist agrees on the number of traits. For example, Mr. Catell has 16, Mr. Bernreuter has 4, Mr. Thurstone has 7. Actually it is quite possible that there are 50,000 to 100,000 human traits if we use English and other languages. Remember, other languages have words that describe emotions that the English language does not describe. Since the human being is multinational, we can theoretically develop a test with 50,000 or 100,000 or 200,000 traits.

To say that 16 personality traits can define a man is a childish, immature, and simplistic argument that should not be taken seriously by a grown person.

Trying to measure a trait like "persistence" by gaging if a person gets a high score on a scale called persistence is another unscientific concept. Dr. Lee J. Cronbach of the University of Illinois points this out. He says this if a person scores well on a scale labeled "persistence" it merely means the person has a tendency to claim to be persistent on personality tests.

Now, if this is of any value to anybody in trying to define "persistence," I don't know. It is like asking a person one question: "How smart are you?" to measure his intelligence. He says: "I am very smart," and the tester believes he is very smart. The fact that it is taken seriously by people shows that we Americans tend to give too much credence to claims of expertise in certain fields, in this case psychology.

MMPI has a scale called Psychopathic Deviate. The Humm-Wadsworth Test has a scale called Hysteroïd, which means approximately the same thing. Yet, there is no general agreement on the scores of the two tests.

If a Federal agency, instead of using MMPI, used the Humm-Wadsworth—which is popular in Los Angeles where it is used by newspapers, et cetera—people that came out psychotic or psychotically

inclined on the MMPI, could come up normal on the Humm-Wadsworth. Changing the tests changes your balance of normal and abnormal people. In such a situation, normality depends not upon your psyche, but upon the psyche of the testmaker. This is a very difficult thing to separate.

There is a very famous projective test used in this country called the draw-a-man test. It has many forms including the buck-house-tree-person test. If you draw a picture of a person, man or woman, they ostensibly can tell something about your psyche or mental health.

The Veterans' Administration, which would have use for such a test, decided to check it out. A Dr. Whitmyre conducted an experiment with 50 men, all veterans, who were mentally ill. He asked them to draw a picture of a person, then took 50 ostensibly normal visitors to the Veterans' Administration hospital and also asked them to draw pictures. He mixed them all up and called in so-called experts on the Draw-A-Man Test and gave them a very simple experiment.

In this field you usually have to come back to commonsense in order to make a rational decision. Some testers state that they can find psychotic behavior in a drawing. Then all you need do to test that claim is to shuffle them up like a deck of cards and give them to a group of psychologists to pick out the normal ones and abnormal ones. This is just what Dr. Whitmyre at the Veterans' Administration did.

The psychologists failed miserably. They could not separate the normals from the abnormals. Dr. Whitmyre then gave the same drawings to an artist and asked him to grade them on art skill. The only positive correlation they could find was that the psychologists agreed with the artist. The psychologists had separated the pictures by art skill rather than emotional illness. The drawing test was also given at the United Nations, as I mentioned in my statement, where it failed miserably in predicting behavior of the Secretariat. The U.N. had a very objective test. They had a timeclock. Over the last 8 years, people had been pressing that timeclock when they came in each morning. The number was indelibly marked in purple ink.

Dr. Shen said to the psychological testers, "Tell us who among the Secretariat tend to be late and who are not late." The results had what testers call a negative correlation, which is generally only possible in a crooked gambling casino.

Mr. GALLAGHER. I might say, Mr. Gross, the example you pointed out of 50 tests, normal and abnormal, was also given on one of these multiquestion tests in one of the local hospitals, and half was given to a group mentally committed and the other half given to the middle class civil servants and Army officers with similar family and cultural backgrounds. The so-called normal group came out with far greater problems of abnormality than did the abnormal people.

Mr. GROSS. Very good. If I had known that, it would have been very good for my book.

Mr. GALLAGHER. Use it.

Mr. GROSS. The next question to consider in the use of psychological tests is criteria. Should the time arrive when science can develop psychological tests which tell you something about the individual—which is still not in the foreseeable future—you would then have to match this up with what you anticipate in the performance of a job.

That is, if we took the job of a writer, or took the job of a Congressman, someone has to sit down and first decide what makes a good writer and what makes a good Congressman. If you can't decide on that it is of absolutely no value to know how sociable a man is, how direct he is, or how indirect he is. Unless you know for sure that you want decisiveness and in what dimensions you want it, there is no sense in testing anyone. In psychological language this is called criteria.

We know nothing about the criteria of any job. This is indicated by the fact that when the same corporations that use this type of testing thought they might as well find out if they knew what they were doing. They asked the Educational Testing Service to do experiments on criteria of executives. This included 14 major firms such as IBM. The Educational Testing Service set up a reasonable experiment. A man working as an executive, with an in-box and out-box, did everything he was told to do. The conclusion that the Educational Testing Service fed back to the corporations is that they did not know anything, nor could they find out anything, about the criteria of executives. Executives vary in their personality and behavior.

People who observe notice this. But testers would like, of course, to be more specific because this enables them to make profitable claims.

In testing, it is important to understand technical phrases such as reliability and validity. Reliability is a psychological phrase that can best be explained by using the thermometer as an example. If a person is without fever, and his temperature is taken with a good thermometer, by a good physician, the thermometer registers approximately 98.6.

If the thermometer in use was unreliable, and the person had no fever, yet it registered anywhere between 90 and 110, then the physician could not use this thermometer for evaluation. Measuring just one or two points of temperature is essential. If your temperature is 97, it could be quite dangerous, and 101 could be the beginning of a heavy infection. If the thermometer was inaccurate in its reliability, then it could not be used as a measuring instrument. No validity could result from it because of its bad reliability.

Reliability is not the accuracy of the prediction, but of the measuring instrument, such as a ruler. If it is ostensibly 6 inches long and is really only five and a half inches, and you measure your height with it, you come out badly.

The manuals generally claim high reliability for tests, whether it is the Washburne or Edwards or MMPI. This is done by the test authors, who have made up the test, and have a natural human tendency to come out with the best possible results.

Later tests on test reliability, called test-retest reliability, are less optimistic. This is a most stringent method that gives the same person the same test over a period of time, perhaps a few weeks apart. This method indicates that most of these tests are not reliable; that is, the same person, 2 weeks apart, scores quite differently on the same test.

His mental health hasn't changed, his sociability hasn't changed, nothing particular about this man has changed in a few weeks. What has changed is the test score, which means that the tests are not reliable. As an example, the Thurstone temperament schedule, which is used

by a large number of corporations in America, on test-retest at the University of Chicago, came out 0.64 on its seven scales rather than the 0.9 or so that the tester claimed. On one scale it was a low 0.48. When test gets below 0.8, or 0.7, like a thermometer that registers between 95 and 105 when it means 98.6, it has to be thrown out.

The MMPI, which claims high reliability also showed up badly on test-retest. On one university sample, the reliability of its "depressive" scale dropped to 0.66, and to 0.56 on the paranoid scale. This means that the potential accuracy of it has been destroyed before the test begins, because the same person who comes out a psychopathic deviate on the MMPI on Tuesday might be perfectly normal on Thursday, because of the lack of reliability of the scales.

Even if the scales of a test are 100 percent reliable, you must then face the question of validity. There are numbers involved here that are very deceiving. For example, someone will say "The IQ, has a 0.50 coefficient of validity." This sounds to laymen like an accuracy of "one-half". When I first began my investigation, this is what I assumed—that if a child has a 140 IQ, and we anticipate grade scores of B+ or A's for this child, then it will be true 50 percent of the time or a 0.50 correlation. This is not true. It turns out that on the curve of predictive efficiency, meaning how much better do we do than flipping a coin, a 0.50 validity coefficient is only 13 percent better than chance.

And there is no personality test with even a claimed validity coefficient of 0.50. If the tests would operate near their highest maximum claimed level, you would have a validity of only 13 percent better than chance. My personal opinion, and this is proven out by statistics, is that the fallible human being has a predictive ability or an equal percentage better than chance. As an example of that, consider IQ scores, and remember that an IQ is a much more valid instrument than personality tests. IQ scores predict college performance, predict academic grades in junior high school and high school and in grade school, approximately 13 percent better than chance.

College Entrance Examination Board tests predict college grades approximately 13 percent better than chance. But teachers' grades in grade school, junior high school, and high school—the fallible human element—predicts a little bit better than the college boards and the IQ. So the infallible personnel man, unscientifically, through hunch, guess, chance, intuition, does better than the best claimed personality test in the evaluation of behavior.

The experiments disproving the tests number in the thousands, most of them done by psychologists. The MMPI was given at the University of California, Los Angeles, to find sexual deviates, ostensibly with an 88 percent accuracy. If this were true, this would be a very valuable instrument for prison wardens. A prison warden in Texas, I believe at Huntsville, decided to give the test, but tried it out first on his known sexual deviates in prison and the men he knew to be normal. The scale did not work at all. This has prompted many psychologists and many observers to state that claims made for tests in one sample generally fail to hold up in another sample. The reason is that chance, rather than science, is generally operating in the situation.

If some tester says that a result is statistically significant—meaning it is not just chance—this is generally a meaningless phrase. “Chance” is the gremlin. If you play at a casino, you will see 10 reds come up in a row. That is a 1,000 to 1 chance, but it happens and it happens quite often, especially if you are betting black. Chance might be 5 to 1, or 6 to 1, or 10 to 1 against test results happening, but they happen. But this is what confuses the Huntsville and UCLA men who use the same personality test and get different results.

A very dangerous element in the tests is that even if they worked exactly as they claimed, experiments including that at UCLA and others I have mentioned point up the existence of the “false-positive.” It is a most dangerous thing. The UCLA MMPI test on sexual deviates stated that they had only 11 percent false-positives. Looking at it superficially, you say that 88 percent accuracy in finding deviates, with only 11 percent false-positives, is good.

We should do a little simple arithmetic, which many testers fail to do. If you have 25,000 students and 50 sexual deviates, and the test is 88 percent accurate, you are going to find 44 of the 50. However, if the test labels 11 percent as false-positive, you are going to mislabel 11 percent of 25,000 students, or almost 3,000 students, as sexual deviates in order to find 44 who are. This simple arithmetic was pointed out by a Navy admiral during World War II, to a psychologist who came to him claiming he had a personal inventory scale which could predict 52 percent of all of the men in the Navy who would get section eights.

The admiral was very interested, of course. Then he asked about the false-positives. How many would be mislabeled? The psychologist assured him they would find 52 percent of the deviates, with only 6 percent false-positives. The admiral pointed out that there were almost 5 million men in the Navy, and that with 6 percent falsely labeled as potentially psychotic, we would lose 300,000 sailors to find 20,000 to 40,000 possible breakdowns. The admiral decided to stay with the old system.

This question of mislabeling is vital because it shows why group testing cannot be used for individual analysis. Even though psychotics, as a group, score higher on the MMPI than normals as a group—because that is how the test was conducted—it is impossible to diagnose individuals with it. You fall into the same false-positive trap as in the Navy experiment. No one wants to be one of the mislabeled.

Then why has it all happened? Why are we involved in this ridiculous situation? The reason is, of course, that we Americans are very impatient people. We insist on marketing our people the way we market cars and everything else. We insist on putting percentiles, labels, and numbers on people. If such a science existed we wouldn't have to worry. We could get wonderful corporation presidents, and wonderful Congressmen, and wonderful writers. But we can't do it, and to attempt to when we can't, is, I would say, a sin. That is all I have to say.

Thank you.

Mr. GALLAGHER. You have said a great deal and we appreciate all that you have said. It is very enlightening to us in grappling with some of these problems. For you to bring some sense into this whole area is very refreshing.

That false positive part of it, especially if applied to Congressmen, would create quite a problem.

Mr. Gross, to get back to the MMPI, if you would there are a series of questions there about religion. Would you care to give us your analysis of the religious questions on the MMPI?

Mr. Gross. Prior to the Psychological Corp. knowing my attitude toward the testing, I interviewed them and at that time they cooperated in giving me the test, and the MMPI scoring key, which is something they would not do today.

As a matter of fact, Newsweek, which I understand is doing an article on the subject, asked the Psychological Corp. for cooperation with the MMPI and was turned down and called me instead.

Unfortunately, I no longer have the test. I had given it to a magazine. However, I went through my book and found facts that I had taken from the scoring key at the time.

Now, in terms of religion on the MMPI there are, many religious questions on page 108, and perhaps I could read from the book. It is only one paragraph.

The brazen MMPI, however, bristles with spiritual overtones. In fact, the testmakers have empirically decided what is "healthy" in religious beliefs and how much devotion is likely to become clinically significant. It is normal, said the MMPI, to believe in God and a life hereafter and to pray several times a week. However, it is not clinically sound to carry faith to such extremes as being very religious, reading the Bible several times a week, or, as some groups sincerely do, believe there is only one true religion.

A person who denies the second coming of Christ, surprisingly enough, is penalized on the depressive scale, with no forgiveness for those who have not yet accepted the first coming. In one generous gesture the MMPI has made it equally acceptable to agree that Christ did change "water into wine," or believe that such miracles are simply "tricks."

The last item had no clinical significance, but the other questions, paraphrasing from the key, you are penalized for reading the Bible too often or believing there is one true religion. You are supposed to believe in the second coming of Christ if you don't want to be penalized on the depressive scale. That escapes me, but of course a great deal in this field is unusual.

The MMPI, as I pointed out, has "lie" questions, to trick the person who would attempt to fabricate a healthier outlook, a person who claims that everything is fine. The test also has "once in a while" admissions, that are supposed to trip up the liar. For example: "I certainly feel useless at times." You are supposed to say "yes" rather than "no." If you say "no" you are penalized in mental health on the whole test. That is called the "K" scale for correction, because the testee is supposedly giving too favorable a picture of himself.

The MMPI is the most dangerous test we have in this country today, because it is given more respectability by the public. It is often put into the hands of clinical psychologists and used in semimedical situations.

This is a grave danger because we do not have any test extant that can measure mental health. As a matter of fact, only the person who is legally committed is, by definition, not sane. If he is not legally committed, by definition, it means that he is sane. To attempt to make qualitative judgments within that frame work is impossible. The MMPI does not add information whether the tests are used by so-called qualified or unqualified people. It is only important to the

extent that unqualified people tend to be very naive. That is, a school guidance counselor, might tend to take bad scores completely at face value and say that the child is emotionally sick.

A very experienced psychologist, who is very intelligent, would tend to be less naive. He might not trust the test, but you could not rely on this.

It is quite possible for a qualified psychologist, with a Ph. D., to take the test quite seriously. Many of them believe the tests are excellent, yet a qualified person cannot give an unvalidated test and have it make sense. The qualification of the tester is not overly important in the use of personality tests because no one is qualified to use these instruments because there are no "qualified" tests.

I was disheartened by the one sentence in the statement of the head of the civil service, which was given to me this afternoon, in which he clarified the use of personality tests in the U.S. Government. Mr. Macy allowed the civil service a loophole, which I think is very dangerous, and will permit the use of personality tests in almost any situation in Government.

He says on the last page of his policy statement, "Use of personality test prohibited." The last sentence of that paragraph reads:

This does not, of course, relate to the proper use of such tests by a qualified psychiatrist, or psychologist when in his professional judgment they would assist in his total study of an individual in connection with medical determination for employment or fitness for future duty.

Mr. GALLAGHER. I might say, and then we will get back to it, this was on the question of invasion of privacy. This did not become part of his overall following file, that this remains part of the clinical relationship between doctor and—

Mr. GROSS. Could it not be used, though, for his discharge?

Mr. GALLAGHER. Yes, it could, no question about it.

Mr. GROSS. I have overlooked one very significant thing, possibly the most significant thing that has been done in test evaluation. That was the Office of Strategic Services, headed by General Donovan, in World War II. They conducted the most extensive personality test program in history. Every prospective agent here at Fairfax, Va., was put through 3 days of personality testing, and every known instrument was used. In the book, "Assessment of Men," a report by OSS psychologists, published by Rinehart after World War II, they list the procedure in detail and I describe it in my book. The OSS book is written so optimistically that you expect that at the end the OSS psychologists are going to say that, as a result of this testing program, we found magnificent agents for use in Yugoslavia, France, et cetera. The book concludes that although their intent was good, and although the techniques seemed excellent, when the test scores were compared with performance ratings of OSS agents throughout the world during World War II, there was no worthwhile correlation. The test did not predict performance. This is simple admission, and they used almost every well known test.

Now, if an instrument is proven by various Government agencies, and by various institutions throughout our history, in carefully validated tests, not to succeed, it seems to me ridiculous that it should be used.

As I say, the greatest danger is the aura of clinical truth that some psychologists would use to surround MMPI. Of course, other

psychologists disagree with the test claims and I have quoted them in my book. I would look askance at any claims made for so-called clinical use of the MMPI.

Mr. GALLAGHER. Mr. Gross, on this religious thing, which disturbs us, this question is given to the Peace Corps in particular tests. Does it not make the norm of the testee—does it not require him to be a Christian to answer correctly, or does it not—

Mr. GROSS. Yes. A Jewish person or a Moslem, who did not believe in the second coming of Christ, because they didn't believe in the first, would be penalized on the depressive scale. A person who didn't read the Bible, who didn't believe in life hereafter, would be penalized.

Of course if you were overreligious, you are penalized equally on the test. If you believe there is only one true religion, as I understand some people in this country including the, Jehovah's Witnesses, believe, you are penalized, too.

The whole theory that attitudes toward religion are related to mental health is a fallacy. Attitudes toward religion vary in people who are healthy and not healthy. Much of it is habit, much of it is tradition, and much of it is how and where you are born. I do not believe it has any relation to mental health.

There are a lot of false psychological theories, which psychologists dignify by calling them a priori. A lot of it is incorporated into psychological testing, yet few psychologists would state that these are true.

Dr. Dollard of Yale states there is no proven theory of personality on which to base a test. If we don't have a theory of personality on which to base a test, I don't know how we can go about creating a test.

Mr. GALLAGHER. Mr. Gross, assuming that the tests were absolutely infallible—

Mr. GROSS. In predicting behavior.

Mr. GALLAGHER. In prediction of behavior, do you feel the Government would have any right to intrude on privacy?

Mr. GROSS. I would oppose them completely on moral grounds in the invasion of privacy, because they are the greatest possible invasion of privacy that can be made. It is probable that the questions that are asked are more intimate than those that a wiretapper would overhear in a normal business conversation. In a normal business conversation, people do not talk about religious attitudes and sex life. It is an invasion of privacy. The sin is compounded because the personality tests are quackery.

I don't think that the personality testers are quacks, and I don't think they are frauds. I do think, however, that they are desperate to have a so-called scientific tool to measure man, because this will greatly enhance their expertise. In doing this they have seized on something which is unscientific.

I think there are a great many sincere, well-meaning people doing personality testing, just as I am sure there are many well-meaning people in nonmedical healing cults, who believe in what they do. But it doesn't mean it is true.

Mr. GALLAGHER. Is this false-positive factor present in the Minnesota tests?

Mr. GROSS. Oh, yes, greatly so. The one experiment that I indicated to you was the sexual deviate test at the University of Cali-

fornia at Los Angeles, where they admitted 11 percent false-positives. Since sexual deviates encompass such a small percent of the population, 1 or 2 percent, and if the false-positives are 11 percent, you are going to mislabel 11 times as many people as you find, if the test were accurate. According to their own claims, it would be dangerous.

Mr. GALLAGHER. Then there could be a great number of young people in the United States being discriminated in this 11-percent factor who may desire to serve the Peace Corps.

Mr. GROSS. Exactly. I would like to point out a book by Dr. Eli Ginzberg of Columbia, actually a series of three books, called "The Ineffective Soldier—Lessons for Management and the Nation." One volume is called "The Lost Divisions." The study was financed by funds, foundations, corporations, and conducted at Columbia over a period of years.

Dr. Ginzberg is a very intelligent man, and he did a very interesting thing. They surveyed the men who were given psychological draft waivers based upon the presumed psychological health of these men as estimated, by the psychological screener at the draft board, or wherever he saw the young men.

Toward the end of World War II, certain groups of draft-exempt people were called up for military emergencies. Dr. Ginzberg's group checked these men who had been psychologically rejected and followed their performance during the war. They found an equal number of heroes, an equal number of psychological breakdowns, and exactly the same performance as the men who had been admitted as psychologically sound. This indicated once and again, for the one-thousandth time, that there is no way, scientific way, that we have to distinguish the mental health of people functioning day to day.

Now, this does not mean that MMPI may not have some use within a mental hospital. I don't know. I didn't occupy myself with that concern. I do not know if the Rorschach ink blot test would not have some use within a mental hospital for the diagnosis of people who have already been declared mentally ill.

It may be worth something, but it is definitely not of value in the selection and screening of normal functioning people to predict their possible psychological breakdown or failure. And by definition, and good psychology students learn this, it is technically impossible to use a group instrument, such as the Minnesota multiphasic, for psychological evaluation of an individual. To use it violates the simple lesson that they probably learned in first or second year psychology.

I can only point out that the question and answer tests have that problem. The projective tests are scaled for the individual. They do not have group statistics, although they have group keys. That is, if you see something in the ink blot it means something specific. In that sense it is group scored. But it is given to individuals, who make an individual response which is evaluated individually by the psychologist.

The thematic apperception test, which contains 19 photographs and drawings, is the same kind of test. You tell the tester what you see in the drawing. A psychologist, in checking the test-retest reliability—that is he waited 9 weeks and gave the test over again to the same people—found a test-retest reliability of less than 0.3, I think 0.26. This means that by psychological definition the test is incapable of making a decision. Total reliability is 1.00, so if test

reliability is 0.26 it means that you can come out completely different just by taking it the second time. You react differently to the pictures. You tell a different story, and the tester then gives a different interpretation. It is a very loose discipline.

I think it is very unfortunate that the psychologists, rather than the layman, have not taken the time and effort to explain all of the technical fallacies and problems in these instruments. Good doctors will always tell a patient or his family the extent and value of the therapy. If a person is dying of cancer of the stomach and the doctor knows the patient is not going to live, he is not going to claim that the patient will recover when he won't. He will tell the truth.

I think it is incumbent upon testers, and psychologists, people who make tests, and those who use them to tell the truth about their claims. Often they do not.

Mr. GALLAGHER. Mr. Horton?

Mr. HORTON. In your last statement, it is along the lines I wanted to follow. You, of course, have made some statements here, and I don't mean to be critical of them, but I just want to get the background for them. You have expressed some opinions and these, of course, are your opinions.

Mr. GROSS. Right.

Mr. HORTON. And the last thing you said, what is the truth? What do the psychiatrists say about these various tests and what is their opinion with regard to the statements that you have made? In other words, are you expressing an opinion which is shared by the majority of psychiatrists, if you will, or is this an opinion which is in controversy? Is yours an opinion that stands alone? Do all psychiatrists think all of these tests are no good?

Mr. GROSS. It is a very good question. I will give you a fair appraisal of the professional attitudes toward the tests. When my book came out, it was viciously attacked in the psychological journals. Fortunately the New York Times gave it to John Dollard of Yale, who maintains a rather independent attitude toward the field and tries to be objective. Because he was reviewing for the Times, I suppose he assumed the difficult responsibility. The review stated that my book was accurate, et cetera.

I have read you the paragraph from the review where he agreed that the tests were worthless. However, the psychological journals attacked the book viciously. They gave it begrudging credit for its extensive research, but stated that I brought a tremendous amount of personal venom and hatred to my opinion on testing which, therefore, was colored. Of course I anticipated this.

The psychiatric community, however, and this is my appraisal of it, had a different attitude than the psychological community. The difference between the two communities are the fact that psychologists are not medical doctors, while the psychiatrist is a medical doctor.

The psychiatric community, by and large, approved my point of view, that the use of tests to determine mental health was a dangerous procedure.

Dr. Lawrence Kubie, who is now here in Washington, I believe at the University of Maryland Medical School and connected in some way with the Government—I believe with NIH but I am not sure—previously was professor of psychiatry at Columbia College of Physicians and Surgeons, and one of the foremost psychiatrists in America.

I have absolutely no idea what Dr. Kubie thinks of my book, but I will say this. When I did a magazine article on the subject, prior to my book, Sylvia Porter, the business columnist, wrote a column about my opinions. Dr. Kubie wrote a letter to Sylvia Porter which was forwarded to me, stating his complete agreement with the point of view, that the tests were inaccurate and dangerous. He submitted a paper he had written on the general subject of testing and accuracy. I would say that I think it is fair estimate to say that by and large the psychiatric medical community agreed that the tests were not accurate in determining or predicting behavior. Predicting is an important thing. The tester is making a prediction of their behavior, that they are going to break down somewhere along the line. I think that the psychiatric community, by and large, does not believe the tests can do this.

Many in the psychological community do believe the tests can do this because psychologists are more professionally involved. If a psychologist is attached to a mental hospital, psychiatrists will take care of the health of the patient and his therapy and generally give the clinical psychologist the job of testing.

Now again, my opinion does not relate to people who have already been declared mentally incompetent. I have not researched the use of tests among this group, whether the tests differentiate between the groups and whether it can help in diagnosis and therapy. So, to answer your question, I believe that the psychiatric medical community by and large agrees with me.

Mr. HORTON. What special qualifications do you possess to make these criticisms?

Mr. GROSS. Absolutely none. My only special qualification is that I am a journalist, writer, a reputable one. I have written on many subjects with authority. I have received awards for my writing.

Mr. HORTON. I don't mean to be critical, but I am trying to establish—

Mr. GROSS. That is right. Of course, you must remember, very often journalists and writers make surveys of various groups, independently of the profession, for the benefit of the public. Very often an objective good journalist can bring more to it.

I have a reasonably good scientific background from college, so I was intellectually capable of understanding what I was reading, and able to understand the psychologists I talked to.

Mr. HORTON. Do you have any special training or did you have any special training in this field?

Mr. GROSS. I did not. I have a bachelor's degree from college. I have taken a great deal of science. I have taken organic and physical chemistry and all of the calculus, integral calculus, differential calculus. I have a reasonable background in math and science, so I understand the subject. But I have no special qualifications in psychology.

As a matter of fact, I might quote Dr. Dollard, of Yale, who said in his review of my book that this book could not have been written by a psychologist, meaning that a person intimately involved in testing could not have brought it such outside objectivity.

Now, I may say that later on in psychological journals, much of the attitude toward my book changed. The "American Psychologist" which attacked me on many occasions, wrote an article in a later edition, 10 months or so after my book came out, giving it begrudging

praise. The psychologist said I was still a little biased, but that it was of great value to the profession to have the subject aired. He also stated that they too were concerned about unjustifiable claims, ethics, and other points that I raised.

Mr. GALLAGHER. If it will help, Mr. Gross, I don't believe you have to be a chicken to know an egg is bad.

Mr. GROSS. Right.

I have one other point. I was asked to address the convention of the Pennsylvania Psychological Association on psychological testing in 1963, which I did, which was an admission of my competence.

I have been asked by many universities to speak on psychological testing, and have appeared before the American Statistical Association.

Mr. HORTON. One further question in this regard.

Mr. GROSS. That should be the New York Statistical Association in Albany.

Mr. HORTON. One further question in this regard. You did spend time in compiling the information which, of course, is in your book. How much time or how many years have you spent in studying these matters in detail?

Mr. GROSS. Three years.

Mr. HORTON. Are you still doing it?

Mr. GROSS. Yes; only to the extent that I'm called upon to speak in various places and I do some refreshing by going through some journals. But during the period that I wrote the book I gave myself an extensive education and with all due modesty, when I address psychological groups, I appear to have much better command of the subject than the psychologists, which is also often their opinion.

I was invited by the U.S. Government, Civil Service Commission, to address their senior management seminar on psychological testing. I appeared once. I was invited back a second time to address another seminar of senior management, including men in the top ranks of Defense Department and State Department, et cetera. I did not appear the second time because I had to go elsewhere, but I did appear once in Washington.

Mr. HORTON. I gather from your testimony that you don't feel that there are any instances in which psychological testing should be used or could be used by the Federal Government?

Mr. GROSS. The word "psychological testing" is a difficult phrase because it encompasses many tests that are not included in personality testing. Psychological testing is a generic phrase which is used by the profession to include tests such as mechanical aptitude, IQ tests. I would say that the more correct phrase would be personality testing.

Mr. HORTON. Let's confine it to that.

Mr. GROSS. Excuse me, I would broaden it to personality and interest testing. No; they should not be used in any way whatsoever by the U.S. Government. They are very dangerous in the selection of personnel.

Mr. HORTON. Is this because you feel there is an invasion of a right or privacy or because you feel it is immoral testing or because you feel that the results are not going to be effective?

Mr. GROSS. I would say all of those reasons and more. No. 1, it is a tremendous invasion of privacy and, in addition to that, it makes the invasion of privacy respectable in the Nation; it makes the invasion of privacy normal, so that a person not only has his privacy

invaded by the test, but it conditions that agency, conditions the entire population, to consider invasion of privacy a normal way of life. It would be only the beginning of the invasion of privacy.

Should this be established as respectable, this would be only the beginning. Testers would invent criteria for all kinds of behavior; for dress, for speech, for attitudes on politics, religion. They do this now to an extent, but they would go much further. This would be opening the floodgates, I would think, to the destruction of our way of life.

Mr. HORTON. Based on your interviews and your research in these 3 years that you spent in compiling your book, have you found that industry is using on a large order the so-called personality tests?

Mr. GROSS. It is very difficult to state the percentage, but my guess is that about half of the large corporations in the country, in one way or another, use psychological testing either directly through testing companies or through management consultants.

Mr. HORTON. And the same reason for the Government not using them would obtain insofar as your criticism of industry using it also?

Mr. GROSS. Right. The lack of essentiality of the tests is indicated by the very successful companies such as the Bell Telephone Co., the DuPont Corp., which refuse to use them. On the other hand, others can point to Sears, Roebuck, which does use them, as an argument for the efficiency of testing. But a better argument for efficiency is indicated by the fact that if you withdraw something, something bad will subsequently happen. For example, if a person has pneumonia and you don't give him antibiotics, he is going to suffer, perhaps die. Now if you withdrew testing from the DuPont Corp., it should collapse. But the DuPont Corp. is quite successful because it has intelligent management and doesn't need testing. It is very difficult to say testing will hurt a large corporation immediately, because a large corporation has a tremendous amount of talent to draw from, whatever system they use, tossing coins or testing. There are a tremendous amount of young college graduates coming out of business school and many young engineers, so all the testers are doing is shuffling fate. But more than that, they are setting a bad precedent for the future.

I raise the argument in my book that from the tests I have seen and the corporations I have talked to, too much of a premium is being put on conformity and shallow traits in the criteria for personality scales that they match against the test scores. In a time of success and prosperity, this may not hurt a large corporation, but should the Nation ever be faced with a depression and require great ingenuity and aggressiveness from heads of corporations, we may find we have been selecting the wrong men. Perhaps testing it is a luxury of peacetime, a luxury of prosperity.

Small corporations, I do feel, suffer greatly when they use testing because little corporations need growth and they need aggressive imaginative individuals. This type are screened out by tests such as the "Study of Values" which testers use to discriminate against men of culture and intellect in favor of men who only want to make money.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Mr. Rosenthal.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

You spoke of Professor Dollard approving your book. Nonetheless, at the same time, he called you an angry journalist, is that correct? Do you think that term and connotation that derives from it implies any suspicion of your objectivity?

MR. GROSS. He stated two things in the review. First, I don't think angry journalist can be interpreted as negative. The next thing he said, "It was about time someone did it." But later in the review he said, "Mr. Gross brings too much hatred, too much venom to his anger against personality testing." He objected to my title, and thought perhaps I was thinking of bird watching or brain washing. I didn't understand his point, but he objected to that. He made no negative comment about the content or facts in the book. But he was objecting as a psychologist. I'm sure he felt a personal affront to his profession because of my comments and my language, which I think is his due. But, he made no objection to my information and, as a matter of fact, he agreed completely with my point of view.

MR. ROSENTHAL. Are you working on another book on another subject matter these days?

MR. GROSS. Yes, I am.

MR. ROSENTHAL. What subject is that?

MR. GROSS. I don't know if it is pertinent, but if you like, I am doing an investigation of the medical profession.

MR. ROSENTHAL. Let me suggest why I think it is pertinent.

MR. GALLAGHER. It is not pertinent to this.

MR. ROSENTHAL. I think it is, Mr. Chairman. Let me suggest why. You made almost sledge hammer accusations, many of which this committee would be willing to accept, accept their credibility and I, for one, would but, on the other hand, if we are going to build a creditable record to be used by Congress and those outside, we have to make it appear that we have inquired, as Mr. Horton indicated quite appropriately, to your credentials to see whether the charges that you make are supported by fact. I, for one, don't doubt that much of what you say is probably true. At the moment, we have an enormous void in the record.

Now, if you were in the position of the chairman and you wanted to offer someone a chance to rebut what you said, whom do you think you would call as a witness?

MR. GROSS. I would guess any one of the operators of testing corporations, or their chief psychologist.

MR. ROSENTHAL. Are there any outstanding authorities in the United States that, in your opinion, are somewhat more objective than those commercially involved in this subject?

MR. GROSS. It is difficult to get someone in favor of testing who is not commercially involved. The difficulty is that the academic community—this is a very unfortunate thing—the academic community in some cases is mingled closely with the commercial testing community. For example, some of the testing corporations in New York, Chicago, and elsewhere, have academic people on their staffs and some are owned by academic people. Some psychologists at Columbia Teachers College do testing commercially in addition to their academic work. So, it is very difficult to separate the two. I don't know of any academic person who is an advocate of the efficiency of testing who is not commercially involved.

There are some men who would give you a somewhat different picture than I did, only to the extent to say that Mr. Gross is right; the tests aren't very good, but they are not all as bad as he says they are. For example, there is Dr. Cronbach, who is a very intelligent psychologist at the University of Illinois, who has written a textbook called "Psychological Measurement." Dr. Lee Cronbach is 50 percent as skeptical as I am. Naturally, the journalist feels he has a more objective viewpoint because he is able to be objective. He says to the tester that he will look at the part you say is good, and I will ask other people to verify it. It is very difficult to crack a real discipline. It would be impossible for me to go into chemistry and physics and to disprove certain equations that are being used. Its theory is carefully set up. Say a space vehicle is going to do X, Y, Z. The chances are excellent it is going to do X, Y, Z and it would be very difficult for me to say it is not going to do X, Y, Z. If one psychologist, however, says the Rorschach is no good, that it is a joke, but that the MMPI is great, I will say, "You say that is great, but I'm going to ask 20 other psychologists." Nineteen might disagree. Testing is an infant discipline without rigorous methodology.

Mr. ROSENTHAL. We are getting off the track of where I want to go. I'm thinking of the responsibility I have. I frankly and honestly want to believe in what you say. I want to make sure I'm on pretty safe ground. There isn't any question that your participation in this thing had some commercial overtones.

Mr. GROSS. Not commercial, professional. I'm a writer. This is what I do for a living.

Mr. ROSENTHAL. To wit, the sale of the book.

Mr. GROSS. I do this for a living all the time. This is my work. When I was writing the book on testing, I wrote a book on testing. Before that, I wrote an article on Blue Cross. It doesn't give it any special commercial significance. I have been doing it for 15 years or more.

Mr. ROSENTHAL. What subjects had you done before testing?

Mr. GROSS. I had written over 150 articles for Good Housekeeping, Saturday Evening Post, Life—all the major magazines—and I have covered a great many subjects. I did an article on Blue Cross-Blue Shield for Good Housekeeping which resulted in a change of Blue Cross-Blue Shield reimbursements in New York and a change in their procedure.

I did an article on education, which won an award from the National Education Association on the failure to build intelligent schoolhouses.

I have done articles on psychiatry, on psychology. I did an article during the 1950's that there was much shoddy building being done. I did the first article on the FHA-VA and problems arising in home-building out on Long Island.

Mr. ROSENTHAL. I didn't want you to misunderstand the nature of my inquiry.

Mr. GROSS. I don't misunderstand.

Mr. ROSENTHAL. We are involved in a very important subject, important not only to the role of the Federal Government, but the tone that the Federal Government sets for the rest of the Nation in this subject.

Mr. GROSS. I think I can explain your problem with one anecdote.

Mr. ROSENTHAL. My personal problem or professional problem?

Mr. GROSS. Professional problem. One anecdote which explains the dilemma which you will find insolvable in a problem such as this.

A television show, or radio show, that had invited me, also wanted a professional psychologist to come on. I called a gentleman at a university in New York who had expressed antagonism against personality testing and invited him to appear. He said, "I will think about it." I called him back and he said "No." I asked "Why?" He said he agreed that the tests that are now in use are no good. But, he added, "I am working on one." You are faced with the tremendous problem of an infant discipline, in which many of the people within the profession will say, in general terms, that the tests are inaccurate, unscientific, et cetera.

However, they invariably add, we are doing unusual work on tests at this school. You face a very grave problem in which the individual and personal claims, and personal allegiances to schools of psychology will confuse you.

As an example, Dr. Hans Eysenck, a very important psychologist who is director of the Institute of Psychology at the University of London, has written extensively on the fallacy of the Rorschach blot test, Draw-A-Man Test, and all other projective instruments. Dr. Eysenck would, I think, support verbatim and even more vociferously than I, the objections to projective tests.

However, Dr. Eysenck is one of the world's great authorities in a positive sense, on the question and answer tests. He thinks that the only possibility for psychological personality test truth is in questions and answers, and he has been working on that for many years.

Another expert, Burleigh Gardner of Social Research, Inc., of Chicago and the people at Personnel Labs in New York will say that question and answer tests are ridiculous. It is obvious to them that question and answer personality tests are fallacious and make no psychological sense. You can cheat on them. They only have face validity. They will repeat what Cronbach and Eisenberg and others say about the problems involved.

But, they say, the thematic apperception test and the Rorschach ink blots and other projective instruments that they give—often "blind," as in the case of the Personnel Labs in New York—are exceptionally good because they make clinical sense.

Do you see my point? It is very simple for the journalist to put the two together and say that it is obvious to the objective viewer that both arguments are sound. I can say there is no test validity anywhere because each gentleman is exposing each of the pieces of the puzzle for me separately. I just put them all together. You cannot do this in a valid discipline. You can't conclusively prove little pieces of failure in science. You can't prove a mathematical equation or a chemical equation is wrong, and therefore that chemistry or mathematics is false.

I would say that if you wanted a more moderate attack, more moderate cynicism, you might get Prof. Anne Anastasi at Fordham University, Prof. John Dollard of Yale, Prof. Lee Cronbach of the University of Illinois.

But, as I say, you have problems. Dollard is not commercially involved in testing in any way. Dr. Anastasi is not commercially involved but she just did a personality test for the College Entrance Examination Board for college students and has developed a biographical scale she thinks is good.

So you have a problem. The three names I gave you wouldn't, I believe, be advocates of personality testing, but they would be less annoyed than I am, because they are in the profession. In the same way someone coming along who would be angry at writers, because they think some journalists are bad, would be a good witness against me in terms of writing in general.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Gross, while this has been extremely interesting, our purpose was not to solve this controversy but to show this controversy exists. I think you have done this very well, namely, that psychological testing is greatly controversial. But, in my view, even if it were perfect, an invasion of privacy would still remain.

Mr. Reuss?

Mr. REUSS. Thank you, Mr. Chairman.

Mr. Gross, I am not sure you had a chance to fully respond to the question by Mr. Horton of your objections to personality testing, particularly by the Federal Government.

Item 1 was quite clear, an invasion of privacy, with all of the variants on that theme.

Item 2 in your bill of particulars was that it was very largely valueless and produced frivolous results which have no real relationship to the kind of employee that an agency or employer should want to employ or should retain.

Is that a fair statement of your two objections?

Mr. GROSS. Yes.

Mr. REUSS. Is there not a third, which certainly occurs to me? That third is that this test, particularly the MMPI test, can be quite discriminatory as to minority groups in our society.

Were you here this morning?

Mr. GROSS. No.

Mr. REUSS. This morning I discussed briefly a test conducted by the Department of Labor last year in order to pick 2,000 youth advisers for the war against poverty from some 21,000 applicants, and they used, as part of their method of screening, a 158-question list, which seemed to derive very directly from the MMPI.

You have the "rosetta stone," I guess, to the MMPI, which although I have been trying for 8 months, I can't spring from the Department of Labor.

Mr. GROSS. I no longer have it. I have given it to someone.

Mr. REUSS. Let me see whether your recollection is able, as I think it probably is, to give me the answers to two or three of these questions which I have picked up from the Department of Labor test.

For example, question 19—all of these, incidentally, are derived directly without any verbal exchange from the MMPI—question 19: "I think Lincoln was greater than Washington." Now what was a good answer and what was a bad answer?

Mr. GROSS. Lincoln and Washington on the MMPI are related to a scale called masculinity-femininity. The psychological theory that is behind most masculine and feminine tests is developed from Terman-Miles test. It is an old one which was invented out of pure cloth, out of the concept that masculinity was related to physical activities, sports, and each of cultural interests.

If you are going to be a journalist, for example, the masculine person would want to be a sportswriter. A feminine person would

cover books, politics, or whatever. I suppose a war correspondent would be all right for a man.

The masculine person, according to this theory, doesn't read very much and the feminine person reads a great deal. The interest of masculine and feminine was related, by some strange device, to culture, based on the supposed generalization that females are more cultural than men.

This question, by some strange freak, fits into the masculine-feminine scale on the MMPI. George Washington was a soldier, and George Washington seems to have a more masculine image. On this test, if you prefer Lincoln to Washington, you are penalized on the masculine scale.

Mr. ROSENTHAL. What about the fact Lincoln was a railsplitter?

Mr. GROSS. That should have helped, but it didn't.

Mr. REUSS. Because the bells have rung I won't proceed. So on this, the good answer was Washington and the one that penalized you was Lincoln.

Mr. GROSS. Unless of course, if they were looking for an intellectual job. Then a feminine scale is not generally damaging.

Mr. REUSS. The next question on this list is No. 20: I feel sure that there is only one true religion. I believe you have already said that if you said "Yes," there is only one true religion, that was a damaging answer.

Mr. GROSS. Yes; correct.

Mr. REUSS. Let me take one more question, No. 148: My home as a child was less peaceful and quiet than that of most other people. What did that do for you?

Mr. GROSS. It is negative, if you said true, negative.

Mr. REUSS. If you said your home was less peaceful, this hurt you?

Mr. GROSS. Yes.

Mr. REUSS. I suggest to you that our urban minority group culture being what it is, and fundamentalist religions being as prominent in the culture of the American Negro as they are, a Negro taking this test might well have said that he thought Lincoln was greater than Washington, that he felt sure that his faith was the one true religion, and that since he grew up in a slum, his home was less peaceful and quiet than that of most people. Is that not so?

Mr. GROSS. I would assume; yes.

Mr. REUSS. Isn't there, therefore, a third item in the bill of particulars against these tests, that they, however unwittingly, discriminate against minority groups?

Mr. GROSS. Possibly so, but that discrimination is unwitting. The witting discrimination is such things as fundamentalism in religions. Some psychologists don't like fundamentalist religious ideas, and when inventories are made up, they are generally discriminated against.

Mr. REUSS. One final question, suggested by what you said a moment ago. Am I right in thinking that on these tests, if you, a man, answered true to the question, "I would like to be a journalist," that this gave you a negative rating because this was considered an effeminate profession?

Mr. GROSS. Exactly correct.

Mr. REUSS. Is it conversely true, that if a woman answered to the question, "I would like to be a journalist," that she would like to be a journalist, that this raised questions of lesbianism?

Mr. GROSS. I don't know. Masculine-feminine scale works in reverse with the opposite sex, so I suppose it would penalize her on femininity.

Mr. REUSS. This is from Minnesota multiphasic.

Mr. GROSS. Yes. It has this F-M scale which is absolutely childish. It starts from a false psychological theory that masculinity is related to crudity, and related to ignorance and lack of culture. This probably began in the heads of Professor Terman and Professor Miles who invented the first test from which all others have been derived. This stupidity is followed from test to test and decisions are made on it. As a matter of fact, in one testing company on Third Avenue in Manhattan which grades their test with a machine, a man applied for a job on the DEW line, which I think was being built under Government contract. The man was very cultured and scored high in femininity on the test. He answered that he liked poetry, et cetera. They would not give him the job because they suspected homosexuality. He was married and had three children and wanted to make some money. But he didn't get the job.

So a ridiculous theory creates a ridiculous scale which is then further made ridiculous by applying it to individuals.

Mr. REUSS. Thank you.

Mr. GALLAGHER. Mr. Cornish?

Mr. CORNISH. No questions.

Mr. GALLAGHER. Mr. Romney?

Mr. ROMNEY. No questions.

Mr. GALLAGHER. Thank you very much for appearing here today, and for making a very significant contribution to the study of this subcommittee.

The special inquiry will stand adjourned until 10 a.m. tomorrow.

(Whereupon, at 4:10 p.m., the special inquiry adjourned, to reconvene at 10 a.m. Friday, June 4, 1965.)

SPECIAL INQUIRY ON INVASION OF PRIVACY

FRIDAY, JUNE 4, 1965

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10 a.m., in room 2203, Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman) presiding.

Present: Representatives Cornelius E. Gallagher, Benjamin S. Rosenthal, Frank J. Horton, and Henry S. Reuss.

Also present: Norman G. Cornish, chief of special inquiry; Miles Q. Romney, associate general counsel, Government Operations Committee; James A. Lanigan, general counsel, Government Operations Committee; and Raymond T. Collins, minority professional staff.

Mr. GALLAGHER. The subcommittee will come to order.

Before we hear the testimony of today's witnesses, there are two documents which I would like to insert in the record at this point.

Mr. Cornish?

Mr. CORNISH. Yes, Mr. Chairman. The first one is a letter dated March 26, 1965, from the Deputy Under Secretary of State, Mr. William J. Crockett, and it reads as follows:

DEAR CONGRESSMAN GALLAGHER: There have been numerous questions raised as to whether our use of psychological testing in our regular medical examinations was an appropriate test for a Government agency to impose upon its personnel. We have used this type of testing whenever our medical division determined whether it might assist in the proper treatment for the individuals. We have now decided to discontinue this policy and will substitute instead a requirement that personnel seek their own psychiatric counsel whenever the medical examination indicates psychiatric treatment is necessary.

We expect that this psychiatric care would be carried on in a personal relationship between the employee and doctor of his choice. In this way I think we can insure that the Department of State does not violate the rights of individuals while at the same time fulfills its responsibilities to the individual employee by calling attention to problems as well as protecting the national interest.

The individual employee will seek assistance from his own doctor. I would like to discuss this whole matter with you as we move forward with our new regulations.

I appreciate your help and assistance.

Sincerely,

WILLIAM J. CROCKETT.

The second one, Mr. Chairman, is the text of a memorandum of the Export-Import Bank of Washington, which was transmitted to me as the staff chief of this special inquiry.

It is dated April 20, 1965, and reads as follows.

Memorandum to Personnel Officers.

Subject: Applicant and employee testing.

1. The purpose of this memorandum is to establish a policy prohibiting the use of a certain type of test on employees or applicants for employment with the Export-Import Bank.

2. It is recognized that there are certain kinds of test materials under the general heading of "psychological testing" which are useful and permissible, such as aptitude and vocabulary tests.

3. Apart from the above, there has been some use made in Government of psychological personality tests which most often include questions of an extremely personal nature, bearing on sex, morality, parental relationships and the like.

4. It is hereby prescribed that tests of the nature indicated in paragraph 3 above will not be used in any examination of employees or applicants for employment.

John R. Crown, Administrative Officer, Export-Import Bank of Washington.

Mr. GALLAGHER. There are also several editorials which indicate the degree of public concern over the matter of invasion of privacy and personality testing. If there is no objection, these will become a part of the record also.

(The editorials referred to appear on p. 387 of the appendix.)

Mr. GALLAGHER. Our first witness today is Mr. Leo Werts, Assistant Secretary of Labor for Administration.

TESTIMONY OF LEO R. WERTS, ASSISTANT SECRETARY OF LABOR FOR ADMINISTRATION, DEPARTMENT OF LABOR

Mr. GALLAGHER. Mr. Werts, we welcome you here this morning. (Whereupon, Mr. Leo R. Werts was duly sworn.)

Mr. GALLAGHER. Would you proceed, please?

Mr. WERTS. Thank you.

Mr. Chairman and members of the subcommittee, my name is Leo R. Werts. I am here today representing the Secretary of Labor. The Department welcomes the invitation of the House Committee on Government Operations to appear before it to describe the use we have made of tests and questionnaires for selecting persons to work with youth.

With the committee's permission, Mr. Chairman, I will read some of the significant parts of this testimony and then summarize certain other sections of it which are not as directly related to the question which you have asked as the points I will read.

Mr. GALLAGHER. All right.

STATEMENT OF LEO R. WERTS, ASSISTANT SECRETARY OF LABOR FOR ADMINISTRATION

Before going into the subject of today's hearing, it should be noted that the Department is most strongly opposed to the careless and illegitimate invasion of personal privacy either by private or governmental institutions. The constitutional right against invasions of privacy must be safeguarded at all costs.

The Department of Labor was one of the first Federal agencies to take positive action to assure that maximum efforts were taken by all officers and employees to guarantee the integrity of personal conversations or statements, and to guard against the invasion of privacy through the use of electronic recording and monitoring devices. The Secretary personally became concerned early last year with the potential abuses from monitored telephone conversations and caused an inquiry to be made leading to a comprehensive policy and Department-wide regulations that all internal and external business be transacted with complete candor and confidence.

Distinction between employment in U.S. Department of Labor and Project CAUSE

I would like to emphasize first that counsellors recruited and trained for the CAUSE project are not employees of the Department of Labor. Rather, they are trainees being prepared for assignments with State employment service agencies as counselors of young people. The only exception is the District of Columbia Employment Service which is legally part of the Department of Labor, but which operates as part of the nationwide employment security system.

Types of examinations used for employment in the U.S. Department of Labor

Department employees are hired through examinations developed and administered by the Civil Service Commission or the Department's Board of U.S. Civil Service examiners under the guidance of the Civil Service Commission. Some of these tests are written and some are based on an evaluation of past training and experience. Examples of these examinations are the Federal service entrance examination, the Federal administration and management examination, the economist examination, the stenographer and typist test, and the employment service adviser examination. None of these are personality or psychological examinations. Nor are tests of the type in question used for promotion within the Department.

Background for Project CAUSE

Project CAUSE was born to attack the acute problem of youth counselor shortages. Early in 1964, it became apparent that a rapid rise in the supply of counseling personnel would be required to meet current and prospective demands for qualified staff to serve all youth, but particularly disadvantaged youth—those who are out of school and out of work, those who have no special job skills, and those who are disadvantaged either through lack of education and training or because of poverty, race, and environment.

Although there are approximately 50,000 counselors currently employed in the United States—42,000 in the public schools, 3,500 in State employment service offices, 2,500 by State and local rehabilitation agencies, and 2,000 in nonpublic service activities—the Secretary of Labor's "Report on Manpower Requirements, Resources, Utilization and Training," submitted to Congress by the President in March 1964, estimated that an additional 32,000 full-time counselors would have to be trained during the next 3 years—25,000 for the public schools, 5,500 for the State employment services, and about 600 for rehabilitation counseling.

The increase in the counseling staffs of State employment service offices was predicated on the need for adding well-qualified counselors to service regular guidance and counseling programs, new programs for youth authorized by Congress under the Manpower Development and Training Act, as amended, and to provide counseling services to those young men found unfit for military service and referred by selective service to State employment service offices for assistance.

On top of these existing shortages and demands for counseling personnel, the President's antipoverty program and the enactment of the Economic Opportunity Act of 1964 created a further need for qualified and trained people capable of working with and counseling youth for the Neighborhood Youth Corps, the Job Corps, various community action programs and programs such as the youth opportunity campaign just announced by the President last week.

To increase the supply of trained counseling personnel as rapidly as possible, the Bureau of Employment Security initiated Project CAUSE. Project CAUSE has been designed to supplement existing counselor education programs with an affirmative plan to recruit, select, train, and employ—in cooperation with State employment security agencies, universities, and youth counseling experts—approximately 3,500 counselor trainees between June 1964 and October 1965. The BES project's primary goal is to augment the supply of counseling talent to man youth opportunity centers.

Youth opportunity centers

The Department of Labor is currently establishing throughout the employment security system a nationwide network of youth opportunity centers to increase the employability and employment of all youth 16 to 21 years of age, but with particular emphasis on disadvantaged youth. These centers are necessary because there are about 1.2 million jobless young people in this country who are with little prospect of getting a job, or of keeping one because they have no particular skills. The number of such youths looking for jobs is increasing rapidly and unemployment for this group is almost three times the rate for the rest of the labor force.

These centers are actually local offices established within the framework of the employment service system. They operate as a focal point for government and community efforts in solving youth employment problems through personalized counseling and, necessary preparation for employment. The services offered depend largely on individual needs. They include interviewing, career guidance, intensive counseling; technical services in preparing for employment; job development; job placement; recommending youth for occupational training; referral to MDTA training or to work and training programs through the Neighborhood Youth Corps and Job Corps; and even referral to other appropriate community

agencies when necessary to deal with specific problems. In short, the centers would provide many services needed to help youth find suitable employment.

There is a special need for trained counselors to man these centers. Project CAUSE I has met this need partially and it is anticipated that Project CAUSE II will further meet the need for trained staff.

Project CAUSE II selection and testing

The committee has asked the Department to explain its past and current positions regarding the selection and testing of candidates for youth counselor training. Since the Department does not consider that the testing and selection techniques used for Project CAUSE last summer was objectionable to the vast majority of candidates, the position of the Department is that we are not dealing here with the need to justify the use of tests and questionnaires. In our judgment, the use made of the test materials for the selection of youth counselor trainees was not an invasion of privacy.

I can assure the committee that personality tests will not be given this year nor questions asked that involve invasions of privacy. This year's CAUSE selection process will differ from last year's in that it will serve to determine more completely the relevance of the candidate's experience to work with the disadvantaged. We are looking for interest in and familiarity with the conditions of disadvantaged youth. This technique is also designed to measure a candidate's sensitivity to youth problems and needs.

The new application questionnaire for CAUSE II is designed to serve as both application and objective standardized interview to allow a candidate to review some of his personal and work experience along the following dimensions:

- (1) Degree of familiarity with the poverty of disadvantaged.
- (2) Interests and attitudes toward the type of work required of YOC counselors.
- (3) Formal experience background.
- (4) Work attitudes relating to supervision, sensitivity to administration, and work adjustment.
- (5) Counseling skills, knowledge, and aptitudes.

Applicants may fill out the application at home, and then bring the application answer sheet and booklet to the testing site at the time of taking the CAUSE II selection test. As seen from an examination of the application questionnaire, the candidate selects from five inclusive choices a statement which most closely relates to his work experience, or he endorses a statement which follows an approach to an actual work situation similar to that which he would do or say in the actual situation. This permits us to interview him and at the same time enables us to rapidly and fairly process a large number of applications.

This year's examination was prepared for us by the Department of Health, Education, and Welfare, in conformity with State merit system procedures. Our experience with the assessment of trainees during last year's CAUSE program suggests that this newly designed examination will prove to be an even more relevant and accurate gauge of an individual's suitability for employment that requires constant contact with the disadvantaged. After candidates sit for the examination, a review will be made which emphasizes the candidates' specific substantive knowledge that is directly concerned with youth counseling. We are suggesting, however, that only a minimum score is needed on this examination.

If a candidate has this minimum score, then his application will be used as a basis for selection. This procedure has not been used before in a Federal program and should result in a much more favorable balance of ethnic and minority groups who understand and have experienced conditions of deprivation.

Through the use of computerized information, we can compare each candidate with general statements about the entire group as well as with sample groups that have the characteristics in which we are interested. We thus expect, on the basis of our interview-type application, to place our candidates in two groups: First, those who have many of the experiences and background characteristics we feel desirable; and secondly, those who have few of these characteristics.

The coding and weighing of the questionnaire and test results provides some half dozen subscale scores and there is no possible way of using the five multiple-choice answers from any one question that the candidate may have responded to. We feel that this is an efficient and fair way to handle this data which offers maximum protection to the candidate and at the same time insures us of an intelligent selection process.

Thank you for the opportunity of appearing here today.

Mr. WERTS. Before going into the subject of today's hearing, it should be noted that the Department is strongly opposed to the careless and illegitimate invasion of personal privacy, either by private or governmental institutions. The constitutional right against invasions of privacy must be safeguarded at all costs.

The Department of Labor was one of the first Federal agencies to take positive action to assure that maximum efforts were taken by all officers and employees to guarantee the integrity of personal conversations or statements, and to guard against the invasion of privacy through the use of electronic recording and monitoring devices. The Secretary personally became concerned early last year with the potential abuses from monitored telephone conversations and caused an inquiry to be made leading to a comprehensive policy and department-wide regulations that all internal and external business be transacted with complete candor and confidence. In other words, no use of any electronic devices for recording or listening in on conversations unless all parties were aware of all people who were in on the conversation.

I would like to emphasize first that counselors recruited and trained for the CAUSE project are not employees of the Department of Labor. Rather, they are trainees being prepared for assignments with State employment service agencies as counselors of young people. The only exception is the District of Columbia Employment Service which is legally part of the Department of Labor, but which operates as part of the nationwide employment security system.

Department of Labor employees are hired through examinations developed and administered by the Civil Service Commission or the Department's Board of U.S. Civil Service Examiners under the guidance of the Civil Service Commission. Some of these tests are written and some are based on an evaluation of past training and experience. Examples of these examinations are the Federal service entrance examination, the Federal administration and management examination, the economist examination, the stenographer and typist test, and the employment service adviser examination. None of these are personality or psychological examinations. Nor are tests of the type in question used for promotion within the Department.

These next sections I will summarize and point up essential facts just for the information of the committee.

Project CAUSE was born to attack the acute problem of youth counselor shortages. The Secretary of Labor's report on manpower requirements, resources, utilization, and training, submitted to Congress by the President in March 1964, estimated that an additional 32,000 full-time counselors would have to be trained during the next 3 years—25,000 for the public schools, 5,500 for the State Employment services, and about 600 for rehabilitation counseling.

To increase the supply of trained counseling personnel as rapidly as possible, the Bureau of Employment Security initiated Project CAUSE. The project's primary goal is to augment the supply of counseling talent to man youth opportunity centers.

The youth opportunity centers are actually local offices established within the framework of the employment service system. They operate as a focal point for government and community efforts in solving youth employment problems through individual counseling and necessary preparation for employment. The services offered include interviewing, career guidance, intensive counseling; technical

services in preparing for employment; job development, job placement, recommending youth for occupational training; referral to training provided for under the Manpower Development and Training Act, or to work in training programs provided through the Neighborhood Youth Corps and the Job Corps. The centers would provide many services needed to help youth find suitable employment.

The committee has asked the Department to explain its past and current positions regarding the selection and testing of candidates for youth counselor training.

In rereading these next sentences, Mr. Chairman, I recognize the possibility that these may be misunderstood, and with your permission, I would like to present my apologies for any implications here which may be misunderstood and to assure the committee that the intent of this paragraph is to say that since the Department is using a different approach in 1965, we did not contemplate that we would discuss the procedures used in 1964.

If, however, the committee would like to have a discussion of these items, we would be very glad to arrange for a competent person to discuss the technical aspects of these tests. I am not competent to discuss them because I am not a technician in the testing business.

Mr. GALLAGHER. Well, Mr. Secretary, is the Chair correct in interpreting your remarks to mean that you have now discontinued the type of test which has been discussed before the committee in the past few days?

Mr. WERTS. That is correct, Mr. Chairman.

Mr. GALLAGHER. And that there will not be a personality test made part of a set of conditions precedent to employment?

Mr. WERTS. That is correct, Mr. Chairman. And the points made in the rest of the prepared statement here, the formal statement, make those points.

Mr. GALLAGHER. On your new criteria that you will establish, you are prepared to discuss this with the subcommittee, or counsel on the subcommittee, along with your own people who you feel are competent in this field?

Mr. WERTS. We would be very happy to do that, Mr. Chairman.

Mr. GALLAGHER. Is there any objection?

Mr. REUSS. Well, Mr. Chairman, for the last 8 months, since October, I have been trying to find out from the Department of Labor the nature of this youth opportunity program's trainee test that they administered last June and July. Later I shall ask the subcommittee's permission to put into the record the correspondence between myself and the Department of Labor, which I submit is a masterpiece of evasion by the Department of Labor.

I also would want to put into the record your letter, Mr. Chairman, of May 24, to the Department of Labor, in which you set forth with great precision that we wanted a witness here who would testify about the CAUSE proposal and specifically you said: "It would be helpful if that official could discuss in detail the justification for such tests, their cost, and whether the Department intends to utilize them again."

This was after several paragraphs which set forth the CAUSE project tests and my interest in it. And for the Department of Labor, after 8 months of evading my questions, to come up here this morning and say—and I am quoting—"Since the Department does not consider that the testing and selection techniques used for Project CAUSE last

summer was objectionable to the vast majority of candidates, the position of the Department is that we are not dealing here with the need to justify the use of tests and questionnaires" seems to me not responsive to this subcommittee.

So I would, with the Chair's permission, later on this morning, like to put into the record the evidence which I have been able to accumulate of what the Department of Labor has been doing. This is not so much with a desire to rake up the past, but because I don't think there is any indication that they have reformed. I think they are likely, tomorrow, to thumb their nose—as they did a few months ago—at the Civil Service Commission, and have another one of these damaging personality tests used to deprive people of their right to fair consideration for a job with the Federal Government or with the federally supported programs.

Mr. GALLAGHER. Without objection, it will be so ordered, and the correspondence will become a part of the record.

(The correspondence referred to follows:)

U.S. DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Washington, D.C., November 20, 1964.

HON. HENRY S. REUSS,
House of Representatives, Washington, D.C.

DEAR MR. REUSS: Thank you for your telephone inquiry about the recently completed counselor-adviser university summer education program that was conducted at 27 universities by this Department.

As you doubtless realize, there is a shortage of approximately 31,000 trained counselors in the Nation. The recent program, popularly known as Project CAUSE, was aimed at helping to relieve this shortage and to bring immediate and effective help to the more than 1 million young people who are out of school, out of work, and out of hope.

The counselor aids and youth advisers who were trained this summer acquired new skills and techniques which will enable them to reach out to disadvantaged youth wherever they may be—on the streets, in the settlement houses, or at the corner garage. They will prove of immense aid and assistance to the already overburdened counseling staff of the State employment services.

Nearly 22,000 persons applied for this training course in June of this year. The test used was a multiphasic examination which was designed to select candidates who possessed the characteristics that would enable them to become successful counselors. The test was designed not so much to measure the individual's knowledge, but rather their ability to learn.

After the tests were scored they were returned to Washington, where a sophisticated group of 31 professionals from the Bureau of Employment Security's 11 regions selected those who showed the most promise of becoming successful trainees. In all, 21,993 persons sat for the examination. Of these, 1,904 appeared on campus. Certified at the end of the training were 1,751—a remarkably low dropout rate.

In Wisconsin, 28 persons were selected for the training. This is 2 less than the original quota which was 30. The quotas were based on State population and geographic distribution. Thus far, the Wisconsin State Employment Security Agency has employed 23 of the CAUSE trainees. However, the placement process is still continuing and it can be anticipated that additional trainees will be employed.

I wish to assure you that there was no discrimination in the selection process. In fact, it was impossible to tell from the application or the examination what race, color, or creed the applicants were. However, in its recruiting efforts Project CAUSE launched a special direct mail campaign at recent Negro college graduates in an effort to interest them in the training program. I am enclosing an article by Harry Kranz, "A Crash Program To Aid Disadvantaged Youth," which describes this summer's training program in greater detail.

Your interest in this program is appreciated. If you have any additional inquiries, please feel free to call upon us.

Sincerely yours,

ROBERT C. GOODWIN, *Administrator.*

U.S. DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Washington, D.C., December 17, 1965.

HON. HENRY S. REUSS,
House of Representatives,
Washington, D.C.

DEAR MR. REUSS: This is in response to your telephone conversation with me on December 4, 1964, in which you expressed concern about the possibility of discrimination in the selection process of the recent counselor-adviser university summer education (CAUSE) project.

I wish to reiterate my assurances to you that there was no discrimination on the basis of race, color, or creed in the selection process of these trainees.

As I mentioned in my previous letter to you of November 20, every effort was made to encourage members of minority groups to apply for the program. The presidents of 35 predominantly Negro colleges and universities received personal letters from Secretary Wirtz, asking them to cooperate in publicizing the program among their recent graduates. In addition, 9,200 letters were mailed to the 1962, 1963, and 1964 graduating classes of these Negro colleges informing them of the program. Since there was no way of determining the applicants' race from our records, we have no way of knowing the number of Negroes who took the examination. We did, however, make a head count of the trainees on each campus (after they were selected) and found that at least 169, or 9 percent, of the trainees were nonwhites. Since this is a much higher percentage than that of Negroes who are attending or have graduated from college, we feel that our recruitment efforts were somewhat successful.

The selection process, we must admit, was a difficult one. The examination which all trainees had to take consisted of two major sections; the cognitive battery, which was a mental ability and aptitude test and noncognitive battery, which measured personal characteristics required for successful work in counseling. Of the 21,993 people who took the examination, only 5,419 passed the cognitive portion successfully. Only 3,524 of these were judged to have the necessary personal characteristics and relevant education and/or experience from the noncognitive portion of the test and from information obtained from their applications, and were invited to training.

One of the principal reasons for having the selection of CAUSE trainees take place in Washington was to assure that each applicant would be judged by exactly the same standards, and to avoid the possibility of these criteria being misinterpreted and misunderstood as might have happened if the selection process had taken place in the States. Applicants were judged as much as is humanly possible on an objective basis. Additional credit was given on the personal characteristics portions of the applicant's rating for membership in social reform organizations including NAACP, CORE, etc., as well as the applicants from a disadvantaged background.

A number of the Project CAUSE staff in Washington were nonwhites including members of the selection panel. Several of the 27 colleges and universities which trained counselor aids and youth advisers were predominantly Negro institutions, including Howard University, Tuskegee Institute, and Fisk University, and hundreds of faculty members at the 27 colleges who taught our trainees were also Negroes. I feel that we in the Department of Labor and the staff of Project CAUSE have done everything possible to avoid discrimination on the basis of race or color, and I believe that we have succeeded.

I am enclosing a copy of the application form for Project CAUSE so that you may see the questions which were asked of the applicants. If I may be of any further assistance, please contact me.

Sincerely yours,

ROBERT C. GOODWIN, *Administrator.*

JANUARY 6, 1965.

Mr. ROBERT C. GOODWIN,
Administrator, Bureau of Employment Security,
Department of Labor, Washington, D.C.

DEAR MR. GOODWIN: Thank you for your letter of December 17 with respect to the nature of the selection process for the CAUSE project. As you know, I was mystified because I was informed that some 60 qualified Negro college graduates applied in Wisconsin, but that only 1 was included in the 28 persons selected for training (and even this one shortly thereafter dropped out).

I shall appreciate your making available to me the following information:

1. How many applications were received from Wisconsin? Of these, how many took and how many passed the cognitive test, and the noncognitive test, respectively?

2. I should like copies of the application, the cognitive test, the noncognitive test, and any other documents relevant to the selection of persons for training in the CAUSE project. In connection with the cognitive test, please furnish precise information as to the method of grading used. What answers to what questions produced what grade? What were the various headings under which people were being tested by this test? I would like to be informed all about the control groups whose answers to various of these questions determined whether an answer belongs in one category or another. Precisely who were the people in these control groups, and what was their background? When were the control tests made? Who decided, and how, what people belonged in what control group?

3. How were the decisions made as to whom to hire for the training program? Apparently by the cognitive and noncognitive tests, but what other measures were used? Were the applicants interviewed? Questioned by whom and where? Were the references given checked? By whom, how, and where?

I hope that the material you send me will be comprehensive, so that I may clear up my lack of knowledge about the CAUSE project.

Sincerely,

HENRY S. REUSS,
Member of Congress.

U.S. DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Washington, D.C., February 4, 1965.

HON. HENRY S. REUSS,
House of Representatives,
Washington, D.C.

DEAR MR. REUSS: This is in reply to your letter of January 6 in which you indicated your wish to be informed on several points relating to the selection of trainees for the CAUSE project.

From the State of Wisconsin, a total of 262 applications were received. A total of 252 applicants from Wisconsin took the examination, which included the cognitive and the noncognitive tests. Ninety Wisconsin applicants passed the cognitive test. The noncognitive test was not a pass-or-fail test, but the results of this test were one of the several elements upon which the personality, or "P," rating was based. The noncognitive test consisted of five scales from the California Psychological Inventory and was designed to measure certain specific traits associated with successful counseling. These traits were flexibility, tolerance, psychological mindedness, socialization, and responsibility. In constructing the scales, over 1,000 test items were collected, following which research was done, using groups of people known to have the characteristics to be measured by the test. For example, school principals or other responsible persons were asked to nominate people known to have a high and a low degree of a given trait. Items which the two groups answered in different ways were identified and these items were grouped together to make up the scale. The entire test, consisting of all the scales, was then given to a random collection of people in order to find out how much of any one of the traits is average, or the average number of items that these people answer in the same way as the criterion group. This number then became the average or "norm" group for the given trait.

More than 6,000 men and over 7,000 women took the test, which means that this number constituted the norming group, and that their scores are the "normal" or average scores on which the scales are based. Among those taking the test were the following groups: medical school applicants, social work graduate students, psychology graduate students, prison inmates, high school disciplinary problem students, young delinquents, psychiatric patients, tubercular patients, general medical patients, nurses, banking and business executives, school superintendents, correction officers, machine operators, electric technicians, psychiatric aids, military officers, salesmen, and airline hostesses. The standardization of the test extended over a period of more than 10 years.

The personality or "P" rating included points assigned for the various score levels obtained on the noncognitive sections of the selection battery. It also reflected the extent to which the applicant showed evidence of commitment to work with disadvantaged youth, reliability in past employment and advancement

potential, familiarity with the program and its needs, and familiarity with the culture of poverty. Personality ratings were made by State and regional representatives working with explicit instructions for rating the life-history materials contained in the application and for ranking the noncognitive test scores.

Selection for training was thus based on the applicant's combined rating on the cognitive and noncognitive tests and the content of the application. In addition, quotas established for each State were met in the selection. For each applicant, five letters of references were requested. Due to the crash nature of the program, all letters of reference had not been returned at the time of selection. However, during the course of the training, the letters of reference served as one of the assessment tools. Applicants were not interviewed in person prior to their selection for training.

I am enclosing a copy of the Project CAUSE application blank. With regard to your request for a copy of the examination and other materials, I would like to suggest that a member of the Bureau staff who is prepared to discuss these materials with you and answer any questions that may arise, bring these to your office personally at a prearranged time. If this is agreeable to you, an appointment may be arranged by telephone.

Sincerely yours,

ROBERT C. GOODWIN, *Administrator.*

FEBRUARY 10, 1965.

Mr. ROBERT C. GOODWIN,
*Administrator, Bureau of Employment Security,
Department of Labor,
Washington, D.C.*

DEAR MR. GOODWIN: Thank you for your letter of February 4 in response to mine of January 6.

I am unhappy at my still not having received the copies of the examination and other materials I requested. May I have them?

If I have any questions after having looked at them, I shall get in touch with the appropriate member of your Bureau staff.

Sincerely,

HENRY S. REUSS, *Member of Congress.*

FEBRUARY 24, 1965.

Mr. ROBERT C. GOODWIN,
*Administrator, Bureau of Employment Security,
Department of Labor,
Washington, D.C.*

DEAR MR. GOODWIN: This is in continuation of my letter to you of February 10 and my earlier communications.

I have still not received, and would very much like to have, the ratings given the different answers of part 2 of the youth opportunity program trainees test, the criterion sheets which governed the marking of the examination, and the description of how the California test was prepared.

Sincerely,

HENRY S. REUSS, *Member of Congress.*

U.S. DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Washington, D.C., March 11, 1965.

Hon. HENRY S. REUSS,
*House of Representatives,
Washington, D.C.*

DEAR CONGRESSMAN REUSS: In accordance with your recent request for additional material used in the selection of trainees for the Counselor-Adviser University Summer Education (CAUSE) program, I am forwarding herewith, for your information, a copy of "Selection of Applicants for Youth Opportunity Program Training," the selection manual for the CAUSE program. Beginning on page 17 of this manual, under section D., PQ Rating, you will find a full description of the method of screening on the basis of the noncognitive test and the other personality factors upon which applicants were rated. In the last section of the

manual, appendix M, you will find a reproduction of Criteria Sheet No. 7, which gives directions for P-Rating of the trainees.

I am also sending the name of the publisher of the California Psychological Inventory, as follows:

Psychological Consultation Service,
1230 Queens Road,
Berkeley 8, Calif.

We do not have a copy of the test in its commercial form, nor of the test manual, which describes how it was put together. However, you may purchase a specimen set at a nominal cost, by writing to the above firm. I believe you are aware that we included in our examination only 5 of the 16 scales making up the test.

If we can be of any further service to you, please let us know.

Sincerely yours,

ROBERT C. GOODWIN, *Administrator.*

Mr. GALLAGHER. It is my understanding, Mr. Secretary, that there has been a change of policy, that you are now advising this committee that the tests used in 1964, which Mr. Reuss referred to, will be discontinued?

Mr. WERTS. That is correct, Mr. Chairman.

Mr. HORTON. Mr. Chairman?

Mr. GALLAGHER. Mr. Horton?

Mr. HORTON. Normally I would like to reserve questions and I know it is your policy to reserve questions until the witness has finished, but I think in this instance it ought to be made clear just exactly what the policy was before, and what the policy is now, and when the policy was changed. Now if the witness is prepared to give us that information, I think it might be appropriate to have it now.

Mr. WERTS. Yes, Mr. Congressman. I would be pleased to comment on that. I would say this, that the Secretary and the Department's policy does not permit the kind of thing that happened in 1964. If, in the judgment of those who have had experience with the material, it is considered to have been a violation or invasion of privacy, the policy then is the same as now—prohibiting use of tests if they are considered to be an invasion of privacy.

I think it is fair to say that we in the Secretary's office were not aware of the fine points in this test until the press stories about a young man who was released from one of the colleges where he was under training. I am assured by competent people whose judgment I accept that this gentleman was not released because of anything that was revealed in the test, but his having been requested to resign from the training was based upon observations of his behavior and performance while in training, and was not based at all in terms of tests that were given last year. So that—

Mr. GALLAGHER. Mr. Werts, may the Chair merely sound a note of caution that, since the person has not yet been made part of the record, we would just as soon that it not become a part of the record, and we should speak of him generally, rather than as a specific person, if it would be damaging to the young man.

Mr. WERTS. I agree, Mr. Chairman. I think that is very wise advice. But the point, just to summarize, is that the policy has not changed. I think what we are doing is restating the policy, and making clear and making sure that we have procedures which will make the policy effective. When I proceed, I will be able to—

Mr. HORTON. Mr. Chairman, I am not satisfied with the answer and I want to go into it, but I think we ought to permit the witness to complete his statement.

Mr. GALLAGHER. Yes, I think we should. We can then assume that you and the Secretary, at the policy level, do feel that this test was an invasion of the individual's privacy?

Mr. WERTS. I am sorry, I didn't hear you, sir.

Mr. GALLAGHER. Can we conclude you do feel now the 1964 test was an invasion of privacy?

Mr. WERTS. I will say I have not gone over this personally with the Secretary, so that I don't know what his views are.

I have not seen until this morning the test here. I was assured that these questions were not on the order of those usually referred to as invasion of privacy. Without further study I wouldn't be able to give you a final conclusive answer on that point.

Mr. GALLAGHER. Well if you would like, we could read some of those questions. However, since you have now said to the subcommittee that these tests have been discontinued, I think that would be sufficient at this point.

Mr. WERTS. Thank you, Mr. Chairman.

Proceeding then with the statement, I can assure the committee that personality tests will not be given this year, nor questions asked that involve invasion of privacy. This year's CAUSE selection process will differ from last year's in that it will serve to determine more completely the relevance of the candidate's experience to work with the disadvantaged.

Mr. HORTON. Mr. Werts, would you read the last sentence before the second paragraph, where you just started now?

Mr. WERTS. Yes. Since the Department does not consider that the testing and selection techniques used for Project CAUSE last summer was objectionable to the vast majority of candidates, the position of the Department is that we are not dealing here with the need to justify the use of tests and questionnaires. In our judgment, the use made of the test materials for the selection of youth counselor trainees was not an invasion of privacy.

Mr. GALLAGHER. This is no longer your opinion though?

Mr. WERTS. As I indicated, when I came to this section of the testimony, I think this is an unfortunate statement, and it is possible of misinterpretation and if anyone takes any offense, I apologize, and take full responsibility for it.

Mr. GALLAGHER. Please proceed.

Mr. WERTS. We are looking for interest in and familiarity with the conditions of disadvantaged youth. This technique is also designed to measure a candidate's sensitivity to youth problems and needs.

The new application questionnaire for CAUSE II is designed to serve as both application and objective standardized interview to allow a candidate to review some of his personal and work experience along the following dimensions:

- (1) Degree of familiarity with poverty and the disadvantaged.
- (2) Interests and attitudes toward the type of work required of Youth Opportunity Center counselors.
- (3) Formal experience background.
- (4) Work attitudes relating to supervision, sensitivity to administration, and work adjustment.
- (5) Counseling skills, knowledge, and aptitudes.

Applicants may fill out the application at home, and then bring the application answer sheet and booklet to the testing site at the time of taking the CAUSE II selection test. As seen from an examination of the application questionnaire, the candidate selects from five inclusive choices a statement which most closely relates to his work experience, or he endorses a statement which follows an approach to an actual work situation similar to that which he would do or say in the actual situation. This permits us to interview him and at the same time enables us to rapidly and fairly process a large number of applications.

This year's examination was prepared for us by the Department of Health, Education, and Welfare, in conformity with State merit system procedures. Our experience with the assessment of trainees during last year's CAUSE program suggests that this newly designed examination will prove to be an even more relevant and accurate gauge of an individual's suitability for employment that requires constant contact with the disadvantaged. After candidates sit for the examination, a review will be made which emphasizes the candidate's specific substantive knowledge that is directly concerned with youth counseling. We are suggesting, however, that only a minimum score is needed on this examination.

If a candidate has this minimum score, than his application will be used as a basis for selection. In other words, his experience and knowledge of the job to be done will be the basis for selection. This procedure has not been used before in a Federal program and should result in a much more favorable balance of ethnic and minority groups who understand and have experienced conditions of deprivation.

Through the use of computerized information, we can compare each candidate with general statements about the entire group as well as with sample groups that have the characteristics of individuals who have successfully produced in the field. We thus expect, on the basis of our interview-type application, to place our candidates in two groups; first, those who have many of the experiences and background characteristics we feel desirable, and secondly, those who have few of these characteristics.

The coding and weighing of the questionnaire and test results provides some half-dozen subscale scores and there is no possible way of using the five multiple-choice answers from any one question that the candidate may have responded to. This is an efficient and fair way to handle this data which offers maximum protection to the candidate and at the same time insures us of an intelligent selection process.

Thank you for the opportunity of appearing here today.

I will be pleased to attempt to deal with any questions the committee would like to present, Mr. Chairman.

Mr. GALLAGHER. Thank you very much, Mr. Secretary.

While this subcommittee would like very much to commend the Department for its progressive attitude on the use of electronic devices, nevertheless the Chair finds itself in a somewhat perplexed position this morning. The statement does not seem to be moving to the same drumbeat as your declaration of policy. Perhaps if you would like to clear that up, it might better serve our record.

Since you have not had an opportunity to fully examine the test, I would like to read some of these questions to you. They go in part as follows:

"I think Lincoln was greater than Washington?"

This is one Mr. Reuss pointed out yesterday.

"I feel sure that there is only one true religion."

"When a man is with a woman, he is usually thinking about things related to her sex."

"I often go against my parents' wishes."

"My life at home was always very pleasant."

"I hardly ever get excited or thrilled."

And so on. Now I don't know whether or not you would be prepared to say these statements constitute an invasion of privacy. Taking your policy statement at face value, I am wondering whether or not the rest of your statement does not in fact advise us that you have even bigger and better questions this year?

Mr. WERTS. Mr. Chairman, I don't recognize the document or the source of the questions which you have read. The only document that I have had access to is this one. Are they in this document?

Mr. REUSS. Questions 19 and 20 were among those which the chairman read.

Mr. CORNISH. I can read the numbers of the questions, Mr. Secretary, if that would be helpful.

Mr. WERTS. Yes, it would be, thank you.

Mr. CORNISH. The first one is No. 19, "I think Lincoln was greater than Washington."

I am afraid these haven't been arranged according to the proper number, but may I refer you to the numbers out of order?

Mr. WERTS. Yes.

Mr. CORNISH. No. 90, "When a man is with a woman he is usually thinking about things related to her sex."

No. 106, "I have often gone against my parents wishes."

No. 127, "My home life was always very pleasant."

No. 129, "My table manners are not quite as good at home as when I am out in company."

No. 153, "The members of my family were always very close to each other."

Then back to No. 29, "I often feel as though I have done something wrong or wicked."

No. 56, "My home life was always happy."

No. 54, "My parents have often disapproved of my friends."

No. 51, "I hardly ever get excited or thrilled."

No. 21, "Maybe some minority groups do get rough treatment, but it is no business of mine."

No. 20, "I feel sure that there is only one true religion."

I think most of these cover the ones that were mentioned by the chairman.

Mr. WERTS. Thank you very much.

Mr. GALLAGHER. I merely pointed out a few, Mr. Secretary. This thing goes on and on. Recognizing the difficult situation that you are in, I certainly don't want to pursue this, especially since you apparently are in a change of policy at this time.

Mr. WERTS. That is right. I would be perfectly willing to comment with respect to these. I think they are unfortunate and probably irrelevant to the selection of candidates. I must say that I have no thorough validated basis of the theory, the background of the invasion of privacy, so I would term them, as I have, rather

than try to judge them against any standard definition of invasion of privacy.

Mr. GALLAGHER. Well, the standard that we have been trying to set is that questions along this line, not being relative, are in themselves the business of the individual concerned and should not be the business of the Government or be part of the file of a young person who is starting on his career. And if this should become part of his file then the answers he gives to this would follow him for the rest of his life, with the possibilities of damage in his future life.

Mr. Horton?

Mr. HORTON. Mr. Werts, I asked you a question earlier, and as I indicated, I was not satisfied with the answer. You have indicated that there is a change in policy, and you have referred to this statement that you read that, in your judgment, the use made of the test materials for the selection of youth counselor trainees was not an invasion of privacy.

Now, that, apparently was your policy before. You have indicated that your policy has not really changed, and yet, at the same time, you say it has changed. So I would like to know what your policy was before with regard to personality tests, what your policy is now, and when, if it did change, did it change?

Mr. WERTS. Congressman, the policy, as I indicated earlier is to prohibit personality tests, or invasion of privacy. The statement which I have made today would, I think, support that this is the present policy.

I think if there is a change, it is a change of interpretation and procedure. As I indicated, these matters had not come to the attention of the Secretary's Office—

Mr. HORTON. Let me ask you at that point, why did they not come to the attention of the Secretary's Office? These were put out, or promulgated from the Secretary's Office. I am not talking about the personal attention of the Secretary of Labor, but certainly, the Office has constructive knowledge of it, or should have.

Mr. WERTS. We were aware, obviously, of the Project CAUSE I last year, and the responsibility for carrying out this program was delegated. We would not, in the Secretary's office, review individual pieces of paper, or implementations of a program except when we become aware of the nature of it, we did then take over and look at it very carefully, and that has caused, or has brought about a different practice under the policy this year.

And having looked at CAUSE II application questionnaire, I wouldn't say our judgment is a hundred percent perfect, but this was gone over in great detail in the Secretary's office, and a great many changes were made, eliminations were made.

Hopefully, our judgment has brought us to a questionnaire which will be consistent with the committee's judgment as to what is appropriate and proper.

With respect to this youth opportunity programs trainee's test, part 2, from which these questions were read, it is not a part of this year's test. I don't have a copy of that test, the test that will be given, but I talked to the HEW people who prepared this test—I have looked at it very hurriedly because it wasn't available yet for distribution—and from what I saw, all of the questions are related to the knowledge that the counselor trainee should have to be a successful

trainee. It relates to his experience, his knowledge, and to the things which would be related to a job.

Mr. HORTON. Then if I understand your testimony correctly, you have the same policy with regard to invasion of the right of privacy; that is, that the policy is against the invasion of the right of privacy?

Mr. WERTS. That is correct, Mr. Congressman.

Mr. HORTON. But the implementation of that policy was one that did permit the so-called personality tests, the questions which have been read to you, but that when this was called to your attention, you then made a change in that implementation of policy because you feel that there is an invasion of the right of privacy with the use of this type of test; is that right?

Mr. WERTS. I would say, Mr. Congressman, in response to your statement, the implementation of the policy did permit this to happen as you have stated, and that the supervision of the application of the policy has been tightened up to the point where this cannot happen again, except as we, being human, may make judgments which are not as good as they might be.

Mr. HORTON. As I understand that statement, this would indicate to me at least that in the past you did not look into, or did not check into the implementation of this program, but that now you are checking into it, and you do feel it is so important that you will, in the Secretary's Office, check on this implementation of the policy?

Mr. WERTS. That is correct. That is a fair and accurate statement, Mr. Congressman.

Mr. HORTON. Now, do you refute the statement that was read, and which is a part of your statement where you said, "In our judgment, the use made of the test materials for the selection of youth counselor trainees was not an invasion of privacy"?

Mr. WERTS. I do not refute it in the sense that you have raised the question. I think it is an unfortunate statement.

Mr. HORTON. Then you do feel that the use of these tests materials in the selection of youth counselor trainees is not an invasion of privacy?

Mr. WERTS. As I indicated, as I read when this paragraph was being written, and as I went over verbally the provisions of the 1964 materials, I was assured that—not having the material available to look at—it did not constitute invasion of privacy.

Mr. HORTON. Whose judgment was that?

Mr. WERTS. That was the judgment of the staff people who had produced the material in 1964.

Mr. HORTON. Do these same staff producers feel that these personality tests are not an invasion of privacy?

Mr. WERTS. You mean the 1964 tests?

Mr. HORTON. Yes.

Mr. WERTS. Yes, I think they would still say, in their judgment, these do not constitute invasion of privacy.

Mr. HORTON. Then, do we have a conflict in the Department with regard to this matter?

Mr. GALLAGHER. The Chair would like to suggest that perhaps the policymakers ought to take the test and see how it feels. Perhaps we could get off dead center on this. I think we are involved in a question of semantics. It was not the Labor Department's intention

to invade privacy, but as Mr. Horton pointed out, the net effect was an invasion of privacy.

Mr. WERTS. I would accept that statement. I think all we can say is that having the question raised, and obviously having some doubts, we have said we don't do this any more.

Mr. HORTON. Now, you are talking about these personality tests?

Mr. WERTS. Right.

Mr. HORTON. I have not seen a copy of this application questionnaire for CAUSE II. Do we have copies of that available?

Mr. CORNISH. No, we don't.

Mr. HORTON. Can you make copies of that available to the members of the subcommittee?

Mr. WERTS. Yes.

(The application referred to above follows:)

CAUSE II Application Questionnaire

**U. S. Department of Labor
Bureau of Employment Security**

CAUSE II

In filling out this application, you will complete the first step in applying for a training position with the U.S. Department of Labor's 1965 Counselor Advisor University Summer Education project. This eight week project, to be conducted at more than 30 colleges and universities, will train 2,200 people in techniques of bringing counseling help to the nation's youth who are out of school, out of work, and without hope.

We are pleased that you are interested in CAUSE II. Your recognition of the need to provide disadvantaged youth with opportunities to enter the mainstream of our economic and social life and your desire to help with this important work is to be commended. You are eligible for training if you hold a master's or bachelor's degree, are a citizen of the United States and at least 21 years old.

You will observe that this application for training is unique in many respects. However, it should take you no longer to complete than a more conventional procedure requiring several essays and other written entries. You may consider this application to be a "standard interview" designed to give you an opportunity to react to a variety of areas related to youth counseling and which will also give us a sense of your interests in this work. In addition, this application procedure has definite advantages such as fairness and thoroughness -- we are able to cover many important areas with you and at the same time minimize unreliable subjective judgments of your competence and qualifications.

SELECTION PROCESS

The effectiveness of the CAUSE II selection process will directly depend on the care which you as an individual take with each item in the application booklet -- so take your time. As the second step, you will be asked to take a test given by your State Employment Service agency, or State Civil Service or Merit System. Contact your local Employment Service office for the scheduled test date. When the test is given, be sure to take this completed application and answer sheet with you to the test site.

If you are selected, you will be notified first that you have received an "interim acceptance." This means that you have all the personal and academic qualifications necessary to be a CAUSE II trainee. Within approximately a week you will be notified of your "final acceptance" which depends upon responses from your references, and your eligibility under the law.

When you are notified of your "interim acceptance," you will be given explicit instructions about how to establish your eligibility, and how to obtain travel authorization from your nearest Employment Service office. You will be told at which university you will train, to whom you should report, and when.

TRAINING PROGRAM

CAUSE II university training is scheduled to begin about July 6 and end about September 3. During that time, you will be housed in university facilities and your room and board will be provided free. You will also receive a weekly allowance under the Manpower Development and Training Act of 1965. Following the academic training, you will receive four weeks of on-the-job training at a local State Employment Service office, and if possible, at a Youth Opportunity Center.

EMPLOYMENT

If you successfully complete training, you will be recommended by Project CAUSE II for employment in the youth service programs of your State Employment Service agency. Some states may require you to take a State Civil Service or Merit System examination, either during training or at the end of training, in order to be placed in youth services. In others, the CAUSE selection may be accepted as equivalent to the state examination. Selection for training does not mean you are guaranteed a job.

ANSWER SHEET

This questionnaire is to be answered on the special answer sheet which is enclosed. The answer sheet, when filled out, becomes your official application for Project CAUSE Youth Opportunity Program Training. It is very important that you answer all questions carefully and accurately on the blue side of the answer sheet labeled, "Application Answer Sheet." Do not fold, bend, or tear the answer sheet.

If you are selected for Project CAUSE, the factual information contained in your application will be subject to verification. On the answer sheet you are asked to sign a statement indicating that your answers are true and accurate to the best of your knowledge.

The answer sheet may be filled out with any pencil (no ballpoint or ink); a soft No. 2 pencil is best. Fill in the spaces between the lines so that the space which represents your choice is entirely filled. For example, the first question:

1. Sex

A. Male

B. Female

would be marked on the answer sheet as follows:

1 ☐ A ☐ B ☐ C ☐ D ☐ E or 1 ☐ A ☐ B ☐ C ☐ D ☐ E

If you wish to change an answer, erase your mark completely and thoroughly.

You may mark only one choice for each of the questions. When several answers are possible, pick the answer which you consider most appropriate.

No more than one answer is permitted for each question.

Make no marks on the green side of the answer sheet labeled "Test Answer Sheet." When you take the Project CAUSE Youth Opportunity Program Training Test, you must take the answer sheet with you to the test site, and record your test answers on the green "Test Answer Sheet" side.

The answer sheet will then be sent for scoring and evaluation as a single document containing your application and all of your qualifications for training in Project CAUSE.

REFERENCE INFORMATION

The last page of this booklet contains directions regarding your references. When you have completed the Application Answer Sheet, and have followed the directions on the last page, you will have no further need for the questionnaire. Please turn it in, unmarked and in reusable condition, when you take the Project CAUSE Youth Opportunity Program Training Test.

SPECIAL REQUIREMENTS

Candidates for CAUSE II are required to be at least 21 years old and citizens of the United States. To be eligible for allowances, you must have had at least two years attachment to the labor force which means, according to the Manpower Development and Training Act of 1965, any combination of qualifying periods of gainful employment for pay (including military service), self-employment for profit, or as a worker whose principal employment is in a family enterprise for which he receives no salary. In order to qualify, these periods of employment may not overlap and must aggregate two years. The experience need not be consecutive and may have been acquired at any time in the individual's life.

If you receive an "interim acceptance" for CAUSE II, and wish to accept, you will be asked to fill out a form at your local Employment Service office, at which time your eligibility under the above terms will be determined.

ADDITIONAL INFORMATION

If you need any help in filling out the application answer sheet, or wish to know the date of the Project CAUSE Youth Opportunity Program Training Test in your state, consult your local State Employment Service office. If there is no Employment Service office in your community, your local post office can give you the address of the nearest Employment Service office.

HOW GO ON TO THE QUESTIONS

Set your own pace and work carefully.

Project CAUSE Application Questionnaire

No more than one answer permitted for each of the following questions.

1. Sex
 - A. Male
 - B. Female
2. Residence
 - A. My state of residence is the same as my mailing address state.
 - B. My state of residence is different from my mailing address state.
3. Citizenship
 - A. I am not a citizen and have no firm plans to apply for citizenship.
 - B. I am not a citizen but have made application.
 - C. I am not a citizen but will be, upon expiration of the waiting period.
 - D. I am a citizen of the U.S.
4. Highest degree attained:
 - A. High school diploma
 - B. Bachelor's degree
 - C. Master's degree
 - D. Doctorate degree
 - E. Professional or other degree (Divinity, Law, Medicine, Dentistry)
5. Referral source: I heard about CAUSE II from,
 - A. newspaper, TV, or radio.
 - B. Employment Service office.
 - C. a friend.
 - D. another social agency.
 - E. my college or school.
6. Current status with Employment Service agency
 - A. I am currently employed in my state's Employment Service agency.
 - B. I have passed the state examination and am on the register for a position in my state's Employment Service agency.
 - C. Neither of the above.
7. In how many different communities have you lived since you were 18 years old?
 - A. 1 to 3
 - B. 4 to 6
 - C. 7 to 9
 - D. 10 to 12
 - E. 13 or more
8. Efforts will be made to place those trained by Project CAUSE II in their own states, but it will probably not be possible to place most in their present communities. In some cases, placements might be arranged in other states.
 - A. I am unwilling to move from my community or city.
 - B. I would be willing to move only within my state.
 - C. I would be willing to move to another state.

9. Military service

- A. I was never in military service.
- B. I was in the Armed Forces and was discharged or released from duty under honorable conditions.
- C. I was in the Armed Forces and was discharged or released from duty under conditions of general discharge.
- D. I was discharged dishonorably or as unsuitable within the past five years.
- E. I was discharged dishonorably or as unsuitable more than five years ago.

10. Current marital status

- A. Single
- B. Married
- C. Divorced
- D. Separated
- E. Widowed

11. How many times have you been married?

- A. Never
- B. Once
- C. Two or more times

12. Number of children

- A. None
- B. One
- C. Two
- D. Three
- E. Four or more

13. How many persons (not including yourself) are dependent upon you for all or most of their support?

- A. None
- B. 1
- C. 2 or 3
- D. 4 or 5
- E. More than 5

14. Peace Corps

- A. I applied to the Peace Corps but did not go for training.
- B. I took Peace Corps training but did not go overseas.
- C. I am a returned Peace Corps Volunteer.
- D. I did not apply and was not in the Peace Corps.

15. In the neighborhood or community in which I spent the bulk of my childhood and youth,

- A. the churches were mostly large institutions with good, commercially built structures.
- B. the churches were small local ones, with the buildings largely homemade or built directly by the congregation members.
- C. the churches were store-front or second story rentals.
- D. there were no churches.
- E. I was not aware of what the churches were like.

16. As a youngster, my neighborhood had visits from welfare workers,

- A. daily.
- B. frequently.
- C. occasionally.
- D. almost never.
- E. never.

17. As a youngster, if I had any contact with social workers,

- A. I was glad to see them.
- B. I was told exactly what to tell them.
- C. I was told nothing by my parents.
- D. I never had contact with social workers.
- E. I did not know what a social worker was.

18. How many households do you know directly and personally in which a father or husband has deserted and does not support the family?
- A. None
 - B. One
 - C. Two
 - D. Three
 - E. Four or more
19. In my neighborhood,
- A. older children had most of the responsibility for caring for younger children.
 - B. older children had some responsibility for caring for younger children.
 - C. older children had no responsibility for caring for younger children.
 - D. older children tried to avoid responsibility for caring for younger children.
 - E. none of the above.
20. When you were young if you had some money and wanted to go somewhere,
- A. you went by yourself.
 - B. you found a friend who had some money and you both went.
 - C. you treated your friend.
 - D. you lent your friend money and expected prompt repayment.
 - E. you lent your friend money and expected that sometime he would lend you some.
- You should now be at the end of the first column on your answer sheet.
-
21. Just before your teens, how did you "let off steam" when you got angry?
- A. By fighting.
 - B. By kicking or throwing something.
 - C. By cursing.
 - D. By talking it over with someone.
 - E. I didn't -- I tried to hide my feelings.
22. When you were in high school, where did you and your friends most often get together during the evening?
- A. At a friend's home.
 - B. At a club, dance hall, or public building (e.g., settlement house, school).
 - C. At your home.
 - D. On the street corner.
 - E. At church activities.
23. When you were in grade school, about how many books did you have for your own?
- A. A bookcase full.
 - B. A shelf full.
 - C. About a dozen.
 - D. A few books.
 - E. One or no books.
24. When you were a child in grade school, how often did your parents confer with your teacher on issues other than discipline?
- A. Several times a year.
 - B. At least once a year.
 - C. Less than once a year.
 - D. Not more than once or twice during my grade school years.
 - E. Never.

25. I learned to speak the following language as a child in my home:
- A. Spanish.
 - B. An American Indian language.
 - C. Cajun.
 - D. Portuguese.
 - E. None of the above.
26. Were there times when you did not try to enter an activity, group, association, or facility because you thought you might be excluded or refused out of prejudice against you?
- A. Possibly once, and was not important to me.
 - B. More than once.
 - C. Never - even when I didn't expect to be accepted, I always or mostly always applied or tried to enter.
 - D. I never had reason to think that I might be excluded because of prejudice.
27. Have you lived in a neighborhood or community which, by today's standards, would be considered a poverty, disadvantaged, or depressed area (high unemployment, low income, high crime rate, high concentration of welfare recipients, most workers unskilled)?
- A. No.
 - B. One year or less.
 - C. One or more years.
 - D. Most of childhood and youth.
 - E. All or most of my life, including adulthood.
28. Have you lived in a neighborhood or community in which a large number of residents were of the same minority group?
- A. No.
 - B. One year or less.
 - C. One or more years.
 - D. Most of my childhood and youth.
 - E. All or most of my life, including adulthood.
29. What was the average number of people living in your home during your childhood and/or youth?
- A. Less than one per room.
 - B. One to two persons per room.
 - C. Two to three persons per room.
 - D. Three to four persons per room.
 - E. More than four persons per room.
30. Did you take shop and/or business-secretarial courses in high school?
- A. Yes, I thought they would prepare me for a job.
 - B. Yes, but as a sideline to the regular academic curriculum.
 - C. No.
31. Have you ever felt that some important person (e.g., teacher, supervisor, official) was bending over backwards to be fair to you, so that you began to feel that he or she was being too good to you?
- A. Perhaps once, but it was not important.
 - B. Once and/or more.
 - C. Never.
32. To me, the most important thing about working in a Youth Opportunity Center is:
- A. A chance to innovate in a changing and developing field.
 - B. A chance to do something good for mankind and make a contribution to the world.
 - C. A chance to work directly with young people, in whom I am very interested.
 - D. A chance to use psychology.
 - E. A chance to work into a large, important, and potentially significant organization.

33. Which one of the following activities would you enjoy most?
- A. Develop the theory of operation of a new machine, e.g., auto.
 - B. Supervise the manufacture of the machine.
 - C. Sell the machine.
 - D. Teach others the use of the machine.
 - E. Interest the public in the machine through public speeches.
34. Which of the following strikes you as the most important feature about a job?
- A. The kind of work you actually do.
 - B. The amount of money you make.
 - C. What others think of people who do this job.
 - D. The security the job can give you.
 - E. The ways in which you can use the job to eventually get a better one.
35. How do you feel about a job that would require you to regularly work evenings?
- A. Very inconvenient.
 - B. Inconvenient.
 - C. Somewhat inconvenient.
 - D. Not inconvenient.
 - E. Would prefer such a job.
36. How would you feel about a job that would require you to regularly work Saturdays and Sundays?
- A. Very inconvenient.
 - B. Inconvenient.
 - C. Somewhat inconvenient.
 - D. Not inconvenient.
 - E. Would prefer such a job.
37. How do you feel about jobs requiring many routine operations, calculations, etc.?
- A. Rather enjoy routine once you get the hang of it.
 - B. Do not mind them once in a while.
 - C. Indifferent, take it or leave it.
 - D. Dislike them but would take one if necessary or advantageous.
 - E. Would not take one under any circumstances.
38. My choice of an ideal job would be one which:
- A. Allowed a great amount of interaction with other people.
 - B. Would require working with a small group.
 - C. Would allow me to work closely with one other person.
 - D. Would allow me to work by myself.
39. On which one of the following features of your job would you like to be able to spend more time?
- A. Listening to new ideas.
 - B. Keeping things in their place.
 - C. Passing on detailed information to others.
 - D. Getting to really know the people with whom you work.
 - E. Correcting errors as they are made.
40. To what extent do you read daily newspapers?
- A. Read one or more newspapers thoroughly each day.
 - B. Read parts of a newspaper each day.
 - C. Read a newspaper two or three times per week.
 - D. Seldom read a newspaper.
 - E. Never read newspapers.

You should now be at the end of the second column on your answer sheet.

41. Do you subscribe to or read regularly any of the following periodicals?
- A. Foreign language newspapers published in the U.S.
 - B. Magazines, newspapers, or journals directed to and published for minority or ethnic group members.
 - C. Magazines, newspapers, or journals concerned with problems connected with civil rights, minority or ethnic groups, social issues.
 - D. More than one of the above categories.
 - E. None of the periodicals I read fall into the above categories.
42. How do you usually behave in a group session with your associates?
- A. I feel free to express my views, and sway the group considerably.
 - B. I feel free to express my views, but the group doesn't always share them.
 - C. I am reluctant to express my views, but they are usually very well received.
 - D. I am reluctant to express my views and unsure of their reception.
 - E. I don't usually participate.
43. How have you reacted to the advantages and opportunities that have been presented to you?
- A. I have taken advantage of every opportunity.
 - B. I have generally tried to take advantage of any opportunity.
 - C. I have taken advantage of some and not of others.
 - D. I have not had too many opportunities, but have taken advantage of the ones I have had.
 - E. I have failed to take advantage of any opportunities presented.
44. On the average, how many hours did you work on a job on Saturdays and Sundays when you were a teen-ager?
- A. Didn't work on weekends.
 - B. 1 to 5 hours.
 - C. 6 to 10 hours.
 - D. 11 to 16 hours.
 - E. 17 or more hours.
45. How many of the following did you do by the time you were 18?
- Dance
 - Drink
 - Drive a car
 - Gamble
 - Have a full-time job
 - Have a part-time job
 - Make minor house repairs
 - Play cards
 - Smoke
 - Swim
 - Go alone on an overnight trip to a strange city
 - Operate a tractor, bulldozer, or similar machine
 - Make a long-distance phone call
 - Paint or paper a room
 - Build a small radio
 - Change a tire
 - Mend the cord on an electrical appliance
 - Handle a sailboat in a breeze
 - Play tennis or golf
 - Build and finish some furniture
 - Take complete care of a garden
 - Build and operate a piece of machinery
 - Exhibit something which you made
 - Use a shotgun or .22 caliber or larger rifle
 - Take a share of responsibility for running the home

45. How many of the preceding did you do by the time you were 18? (Cont'd)

- A. 1 to 3
- B. 4 to 7
- C. 8 to 11
- D. 12 to 14
- E. 15 or more

46. During your early youth, what was the main source of your family income?

- A. My father's business or profession.
- B. My mother's business or profession.
- C. Various jobs my father held.
- D. Various jobs my mother held.
- E. Jobs both parents held.

47. Major field

- A. I have a master's degree in Counseling and guidance, psychology, or social work.
- B. My master's degree is in sociology, education, or personnel administration with major interest in working directly with people.
- C. My master's degree is in another field, but includes a strong emphasis on working directly with people seeking or needing help.
- D. My master's degree is in some other field.
- E. I have a bachelor's degree but not a master's.

Below is a list of courses in five areas related to counseling. The titles of courses you have taken need not be identical to those listed.

I. Guidance Principles and Techniques

Principles of Guidance
Counseling Theory
Techniques of Counseling
Preparing and Using Case Records
Vocational Rehabilitation
Counseling
Group Guidance Methods

Pupil Personnel Work
Counseling Follow-up Techniques
Supervised Practice in Counseling
Supervision of Vocational Guidance
Administration and Organization
of Guidance Program
Community Relationships in
Guidance and Personnel Work

II. Analysis of the Individual

Principles of Guidance
Counseling Theory
Techniques of Counseling
Preparing and Using Case Records
Vocational Rehabilitation Counseling
Group Guidance Methods
Pupil Personnel Work
Counseling Follow-up Techniques
Supervised Practice in Counseling
Administration and Organization
of Guidance Program
Community Relationships in Guidance
and Personnel Work

III. Personality Development

Theories of Personality
Abnormal Psychology
Mental Hygiene
Individual Growth and Development
Social Influences in Personality
Development
Psychology of Adjustment as related
to: Adolescence, the Aged, the
Handicapped

IV. Occupational and Industrial Information

Psychology of Occupations
Industrial Psychology
Industrial Sociology
Job Analysis
Theories of Occupational Choice
Occupational and Industrial
Employment Trends

V. Other Courses Contributing to
Counselor Preparation

Social Psychology
Community Resources and Social
Welfare
Educational Psychology
Labor and Industrial Relations
Adolescent Psychology
Motivation and Morale
Personnel Psychology
Human Relations
Social Case Work
Statistical and Research Methods

48. Of the courses listed above, or similar courses,
- A. I have successfully completed at least 22 semester hours (3 quarter hours = 2 semester hours).
 - B. I have successfully completed at least 15 semester hours, distributed over at least three of the listed fields.
 - C. I have successfully completed at least 9 semester hours distributed over at least two of the listed fields.
 - D. I have successfully completed at least 6 semester hours in at least two of the listed fields, or spread out over several of the listed fields.
 - E. I have less than 6 semester hours.
49. My grade point average in these courses was:
- A. B+ to A
 - B. B- to B
 - C. C to C+
 - D. C- or less
 - E. No courses in these fields

50. My grade point average for all graduate work is:

- A. B+ to A
- B. B- to B
- C. C to C+
- D. C- or less
- E. No graduate work

51. My Undergraduate grade point average is:

- A. B+ to A
- B. B- to B
- C. C to C+
- D. C or less

52. While in college,

- A. I was a full-time student for all of my undergraduate college education and was not responsible for the bulk of the expenses incurred.
- B. through all of my undergraduate college education, I worked full or part-time to support myself.
- C. I was a part-time student for some of my undergraduate college education, for reasons other than employment.
- D. I interrupted my undergraduate education for 6 months or more at a time, in order to earn money so that I could go to school.
- E. I would have had to go to school part-time, or to quit, had it not been for scholarship or loan aid.

53. In high school, I

- A. led a clique or gang.
- B. belonged to a clique or gang.
- C. knew the members of a clique well but did not join.
- D. kept to myself.
- E. none of the above.

54. Continuity of education:
- A. I was a full-time student for my master's degree.
 - B. I was a full-time student for my master's program, but worked to support myself.
 - C. I was a part-time student for a master's degree or interrupted a master's program for reasons other than employment.
 - D. I interrupted my master's degree studies for 6 months or more, in order to earn money so that I could go back to school.
 - E. None of the above applicable; I was never a graduate student.
55. Thinking about my most recent job, my course of studies at college
- A. directly prepared me for that job.
 - B. had a substantial but indirect influence on my choice of job.
 - C. had only the most general relation to my job.
 - D. had no influence one way or the other.
 - E. might have influenced me against my choice of job.
56. In relation to work in youth service activities, my experiences at college
- A. directly prepared me for this work.
 - B. involved a substantial but indirect preparation for this work.
 - C. had only the most general relation to this work.
 - D. had no relationship one way or the other.
 - E. might have influenced me against such work.
57. By the time you finished high school, how did you feel towards your life's occupation?
- A. Knew what I wanted in the way of a job and have not changed my mind.
 - B. Thought I knew what I wanted but have since changed my mind.
 - C. Had some idea of what I wanted to go into.
 - D. Had little or no idea of what I wanted to go into because I was interested in many things.
 - E. Had little or no idea what I wanted to go into because few things interested me.
58. Did you change your major while in college?
- A. Never
 - B. Once
 - C. Twice
 - D. Three times
 - E. More than three times
59. How many different jobs have you held during the last three non-student years?
- A. One
 - B. Two
 - C. Three
 - D. Four or more
 - E. I have not had three non-student years.
60. When you take a vacation, which do you prefer?
- A. Like to plan all the details in advance.
 - B. Like to make general plans, but let the details take care of themselves.
 - C. Like to take spontaneous trips and recreation.
 - D. Never take a vacation, or just work or loaf around home.
 - E. Have to spend vacation time working for extra money.

You should now be at the end of the third column on your answer sheet

61. In the last five years, how many times have you been given a ticket for a moving violation while driving a motor vehicle?
- A. Have not driven a motor vehicle in the last 5 years.
 - B. No tickets.
 - C. 1 ticket.
 - D. 2 to 3 tickets.
 - E. 4 or more tickets.
62. How many accidents or injuries have you had in the last 5 years?
- A. None
 - B. 1 to 2
 - C. 3 to 4
 - D. Over 4
63. How has your health and physical fitness been since the age of 18?
- A. Exceptionally good.
 - B. Good, suffering few minor illnesses.
 - C. About like the average person.
 - D. Somewhat of a handicap.
 - E. Definitely a handicap.
64. How much time on the average, in the last five years, have you lost from work or studies because of illness?
- A. Almost none.
 - B. Two or three days a year.
 - C. One to two weeks a year.
 - D. More than two weeks a year.
65. During the past five years:
- A. I have been hospitalized for severe emotional or nervous problems, from which I am now fully recovered.
 - B. I have been hospitalized for severe emotional or nervous problems from which I have largely recovered.
 - C. I have been in office treatment for a nervous or emotional condition which has interfered with my work, and am now fully recovered.
 - D. I have been in office treatment for a nervous or emotional condition which has interfered with my work, and am now largely recovered.
 - E. None of the above.
66. Which of the following is designed to affect the social relationships between racial and ethnic groups?
- A. Court decisions
 - B. Mass demonstrations - "The Movement"
 - C. Federal government operation of installations
 - D. Civil rights legislation
 - E. Executive decision

Several of the responses in each of the following items are acceptable. Select the one response most like one that you might make.

67. "That man, he just asked me a lot of fool questions -- sure I can work that machine -- but he kept after me with a whole lot of stuff, and I got kind of tangled up -- and he said, nothing doing." Response:
- A. "It sounds as though you felt you could do the job but had a lot of trouble making the boss believe it."
 - B. "I guess things started to go well and then all of a sudden you got a little rattled and from then on it was hard to talk to him."
 - C. "It must be rough not getting that job when you certainly knew the whole machine operation."
 - D. "I wonder if it would have been better to ask him to show you the machine and then sit right down and start the operation."
 - E. "Suppose next time we think about the things a man is likely to ask you. That way maybe you won't have as much trouble."
68. "Things are working out fine -- I know in a day or so I got that job for keeps -- I stay with the work -- and the boss is a good guy --- I been late some, but that's nothing." Response:
- A. "So far so good."
 - B. "Sounds like you're real sure of things; I hope you're not fooling yourself about that coming in late."
 - C. "You really worked hard to show them that you can do it."
 - D. "Sound's good, but what got you in late?"
 - E. "Sound's like it's a little hard to talk to the boss about being late."
69. "Can't make it here man, I see more bread working the street in a day than I see pushing one of them handtrucks in a week." The counselor says:
- A. "You feel it's a lot of hard work and very little to show for it at the end of the week."
 - B. "You tell yourself it could be a lot easier and you wonder why you do this."
 - C. "I wonder if even though you want to quit, maybe you are afraid that you can't."
 - D. "It's a hard nasty job and so far you haven't quit."
 - E. "I guess it would take a lot of guts to stay. It would be easy to walk out and after a while mess up all over again."
70. "I don't know you, Mister -- I know all the folks around here -- but I never seen you -- two months ago some fellows came by asking a lot of questions -- heck, now I am right where I was then -- just a-sitting." The counselor says:
- A. "It sounds as though you wonder who I am and whether it's going to be as useless to talk to me as the other people who passed through this town."
 - B. "You must be tired of people who seem to promise a lot and never really do anything for you."
 - C. "I guess it would be a lot easier to believe me if you really knew something about me."
 - D. "You must be really mad at people who run through town making a lot of promises before they even get to know your name."
 - E. "I wonder if maybe you haven't gotten a break for so long that it is going to be hard to take advantage of it when it does come along."

71. "My folks work this piece of land -- my grandpa -- he owned it -- then pa sold it to the coal company. It's pretty sorry land now -- the top is off that hill -- but we still work it some -- ain't nothing else to do." Your response to this youth should stress:
- A. Your appreciation of what the land means to him.
 - B. Your understanding of how limited the opportunities there really are.
 - C. Your understanding of how much work he does and how little he gets for it.
 - D. Your realization that he has little hope of doing anything else.
 - E. Your realization that there is very little else that he knows.
72. "That's o.k., I didn't really think I could get it. You tried, you did a whole lot for me -- I guess I just messed up again." Response:
- A. "You really blame yourself, but let's try and see what else I could have done."
 - B. "You certainly tried."
 - C. "Maybe you got cold feet before you started."
 - D. "If you could believe in yourself, you'd stand a better chance."
 - E. "Just one more disappointment."
73. "He don't want any part of me -- never did -- sure, he said I could -- but he sees his chance, you watch, he'll make his move, -- and I'm ready -- I don't have to take nothing from him." Response:
- A. "It sounds like trouble's around the corner and you're waiting for it."
 - B. "Just waiting for him to start something must get pretty uncomfortable."
 - C. "Waiting for him to start must be very hard, sort of like walking a tight-rope."
 - D. "It sounds like you wish he would make his move and get it over with."
 - E. "It sounds like he put you down once and you're just looking for an excuse to get to him again."
74. "I mean, I tried -- but I just can't follow that stuff -- it makes some kind of sense -- and then it just don't stay together -- I guess I just can't get it." Response:
- A. You understood it for a while and then it got to be too much for you."
 - B. "It sounds like you made a good start and then it began to come at you too fast."
 - C. "You're feeling bad now, but you did stay with it for a while, and that's something."
 - D. "Something got in your way and made you stop."
 - E. "I can't see how that could have happened, try to tell me more about it."

75. "Waste of money, those people never will amount to anything. First nice day they take off - and you won't see them again till it rains." Response:
- A. "Their lack of ambition really bothers you."
 - B. "I guess you feel that when I know them as well as you do, I am going to have to come around."
 - C. "I guess you are tired of having people come here who can't do the job."
 - D. "It sounds as though even if things start out well here, you know sooner or later there will be trouble."
 - E. "I guess even if they really do the job, you probably won't believe it."
76. "Don't mess with that boy - I don't want anybody putting a whole lot of ideas into his head." Response:
- A. "I guess you are not sure what I am going to tell him, and there's no telling what he'll be like when I'm through talking to him."
 - B. "It sounds like you got him where you want him and mean to keep it that way."
 - C. "I guess he is a handful now and you're probably wondering if I might get him into trouble."
 - D. "I wonder if maybe you feel that when we are done he won't pay any attention to you any more."
 - E. "It might make sense if we went over things first with you."

77. "I mean you tell me a lot of stuff - that's your job - they pay you for that - but I mean, I know what you really think." Response:
- A. "I guess it is one thing for me to tell you something and another thing for you to believe it."
 - B. "I guess you really don't trust me."
 - C. "I guess I have asked you to go further than you're ready to trust me."
 - D. "It sounds like you made your mind up and whatever I tell you won't matter."
 - E. "I think you know where I stand, it is just hard for you to say so."
78. "Now hold on, yea, maybe I was supposed to be there, but something else--I mean--heck, you don't own me." Response:
- A. "You know there is nothing more important than keeping an appointment for a job interview."
 - B. "Maybe I've been riding you some, but we both want to see you on a job."
 - C. "Maybe we should slow down some, there will be other jobs."
 - D. "Sounds like you are pretty mad, what did come up?"
 - E. "What you are telling me is you are really mad at yourself."

79. "Mister, I'm scratching just to stand still --- there's them three little ones --- my pa - he been gone for two years, and ma gets tired kind of easy now. I got to stay here." Response:
- A. "You've got too much holding you to take advantage of this offer."
 - B. "You are really up against it."
 - C. "You've stayed with a lot that most people would side-step."
 - D. "If this works out you won't have to scratch. Maybe we ought to get some people to give you a hand with the family."
 - E. "You have a lot to take care of here, but even so, maybe you are not going because that kind of move is strange and a little scary."
80. "I tell you like it is--it's rough out here man--ain't like it use to be home--those cats get you up tight--you ain't got your people--you're nothing." Young man is arguing for:
- A. Family solidarity
 - B. Defensive street group
 - C. Solitary defensive activity
 - D. Offensive street group
 - E. Group activity

You should now be at the end of the fourth column on your answer sheet

Of the several possibly effective ways of handling each of the following situations, select the one closest to what you would probably do.

81. A successful client begins to backslide after his worker has transferred. - You are assigned the case:
- A. Discuss with the client your own admiration of the former worker and indicate that you both should try not to let him down.
 - B. Indicate that you have also had much experience in helping many people and can help him.
 - C. Show him that his former worker has made his share of mistakes.
 - D. Tell him that you have spoken to his worker and are now in a position to offer him help.
 - E. Tell him that it may be a while before he is comfortable with you but that you would like to work with him.

82. The client referred to you by a probation officer feels that you have derogatory information about him which you may use against him.
- Tell him frankly that what he has done is a matter of record and that he should have thought about it before he did it.
 - Tell him that the official activity of a probation officer has no relation to your function and that you have no access to those records.
 - Tell him that you are in a position to put in a good word for him with the probation department.
 - Tell him that you, like the probation officer, are interested in helping him plan for his future.
 - Tell him that you know he has come to see you because he has to, but that much of what gets done is up to him.
83. A youth with very poor academic skills seems interested in a career choice which requires a high degree of formal training.
- Point out the inappropriateness of his choice and indicate that he will need to work very hard before the career is open to him.
 - Suggest that although what he wants to do is up to him he will need to work very hard before the career is open to him.
 - Find an occupation which taps these skills at a lower level and raise this as a possibility which offers similar satisfaction for him.
 - Arrange an intensive tutorial and remedial program which will bring him up to the desired skill level.
 - Suggest that you and he will be spending some time talking about his interests and that your job is to help him make a useful choice.
84. The client discovers that the worker appeared to have been arbitrary and inconsistent. "That's weak man," the client says.
- Do not directly allude to this; he will come to trust you as you continue to work with him.
 - Do not directly allude to this, but arrange to provide him with proof of your effectiveness and concern.
 - Point out the unfairness of his judgment and assure him that as he comes to know you he will find that you have his interest at heart.
 - Try to go over the situation with him and convince him that he was wrong.
 - Try to go over the situation with him and openly accept the possibility that he may have some good reason for feeling as he did.
85. A friend of a successful client comes and expects that you will do as much for him as you did for the client.
- Acknowledge the referral source and indicate that there is a good chance that you could do as much for him.
 - Acknowledge the referral source, indicate how pleased you are that things worked out for his friend, and suggest that this client try to achieve the same objectives.
 - Acknowledge the referral source but indicate that the friend was fortunate to have things turn out as well as they did.
 - Do not acknowledge the referral source until you find out what this client really thought of his friend.
 - Acknowledge the referral source and indicate that you are pleased to work with him but that the outcome depends on what he himself really wants to do.

86. A youth who was a high school dropout and has a spotty work record has favorably impressed a remedial teacher with his potential.
- A. Review his record with the remedial teacher and point up the inconsistencies in the youth's performances.
 - B. Suggest to the teacher that you are the person counseling the youth and that she ought to check with you before she gives him too much encouragement.
 - C. Try to get the teacher to take over job planning for this youngster as she seems to be doing a good job with him.
 - D. Take note of his progress and revise your planning with the youth as he may be college-bound.
 - E. Arrange to work closely with the teacher and see if she has any thoughts about possible plans for him.
87. How much did you work while in high school?
- A. I worked regularly after school and/or on weekends while in high school and contributed some of my earnings to my parents.
 - B. I worked regularly after school and/or on weekends while in high school and used the earnings for my allowance and personal needs, or my own savings.
 - C. I did not work while in high school, except for irregular jobs baby-sitting, lawn-mowing, or helping in the family business.
88. How many hours a week did you spend on a part-time job while a senior in high school?
- A. None.
 - B. Less than 5 hours.
 - C. 5 to 10 hours.
 - D. 10 to 20 hours.
 - E. More than 20 hours.
89. During the last couple of years you were in high school what part of the money for your support did you personally earn?
- A. Less than 10%.
 - B. Between 10% and 30%.
 - C. Between 30% and 60%.
 - D. Between 60% and 90%.
 - E. About all of it.
90. If you worked while in high school, was it for:
- A. A relative or a contact made by a relative?
 - B. A neighbor or family friend, or a contact made by them?
 - C. A personal friend, or a contact made by a personal friend?
 - D. An organization in which neither friends, neighbors, or relatives used or had contacts?
 - E. I was not employed while in high school.
91. If you attended college, what percent of your college expenses did you earn?
- A. Less than 10%.
 - B. More than 10% but less than 25%.
 - C. More than 25% but less than 50%.
 - D. More than 50% but less than 75%.
 - E. More than 75%.

92. I have gotten at least one job through:
- A. Friends or people in the neighborhood who heard about it and told me, though they didn't help me get it.
 - B. Contacts arranged by police, a court, or social worker.
 - C. Contacts arranged by the employment service.
 - D. More than one of the above.
 - E. None of the above apply to me.
93. Why did you leave your last full-time job?
- A. Dissatisfied with pay or working conditions.
 - B. I was laid off or discharged.
 - C. Little chance for advancement.
 - D. Important personal reasons (such as moving to another part of the country).
 - E. Something else, or did not have a full-time job that I left.
94. In which one of the following have you most desired greater opportunity in jobs you have held in the past?
- A. Use of my imagination.
 - B. Exercise of my administrative ability.
 - C. Freedom to do the job as it should be done.
 - D. Relax now and then.
 - E. Exercise my initiative.
95. What has been your most important reason for desiring to change any job you have held in the past?
- A. To do more interesting work.
 - B. To have more likeable associates.
 - C. To increase my pay.
 - D. To make better use of my training and experience.
 - E. Other, or no previous job.
96. Which one of the following best describes your work?
- A. Exhausting.
 - B. Very tiring at times.
 - C. Generally fatiguing.
 - D. I know that I have done a day's work but I am not tired.
 - E. Not the least bit tiring; I can work and still enjoy the evenings without feeling it.
97. Which one of the following have you disliked most about the way you have been treated in any job you have held?
- A. Poor personnel practices.
 - B. Lack of communication, and cooperation between staff.
 - C. Poor pay.
 - D. Lack of recognition.
 - E. Resistance to new ideas.
98. Which one of the following has bothered you the most about the way you have been treated in any jobs you have held?
- A. Too many interruptions from agency administration.
 - B. Discrepancy between agency policy and needs of clients.
 - C. Not enough opportunity to use my own judgment.
 - D. Lack of sufficient information provided upon which to base my decisions.
 - E. Insufficiently defined lines of authority.

99. Which of the following characteristics do you like most in supervisors?

- A. Ability to deal effectively with people.
- B. Ability to back up staff.
- C. Knowledge of the technical aspects of administration.
- D. Ability to represent the agency effectively.
- E. Ability to size up a situation and act accordingly.

In the following section, pick the one answer which best describes your experience.

We are interested in fully exploring your work history relevant to youth counseling. Answer questions 100 to 114 on the basis of your paid experience in the following fields:

Counseling, guidance, personnel work.

Work with youth, youth groups, or youth organizations.

Providing assistance to disadvantaged individuals or groups including workers in marginal, low level, or subsistence industries.

Providing service for workers facing technological unemployment, subsistence farmers, or marginal mining industries.

Providing service for migrant workers with sporadic employment and/or marginal wages, and culturally disadvantaged minority and ethnic groups as well as handicapped, mentally retarded, or mentally ill individuals.

Helping people through civic or community programs, social agencies, and organizations.

Teaching and practice teaching.

Involvement in labor union activities at a staff level.

Employment as juvenile aid bureau or youth division officer.

Experience in probation, parole, or rehabilitative counseling.

Direct social action within a community action program.

Affiliation with Peace Corps, American Friends Service Committee, or similar direct service activity on a full-time basis. Any other similar social welfare or service activity.

If you have not had experience in these areas, mark the "no experience" choice on your answer sheet for each question.

100. In these preceding areas, within the past 10 years, my full-time or full-time equivalency experience (1800 hours of work equals one year of full-time work) has been for:

- A. No experience to 6 months
- B. 6 months to 1 year
- C. 1 year to 18 months
- D. 2 to 4 years
- E. Over 4 years

You should now be at the end of the fifth column on your answer sheet

101. Most of my experience with out-reach techniques, out-of-agency group work, and/or street club work or rural social work on an outstation basis has been gained:

- A. Through direct job experience as an out-station worker with continuing responsibility for clients. Population served through out-of-office contacts.
- B. Through direct job experience as an in-agency worker with intermittent assignments as an out-station worker with partial case responsibility for out-of-office contacts with clients.
- C. Through job experience as an in-agency worker with liaison to out-station worker, but not providing a direct service to out-of-agency clients.
- D. Through job experience in an agency or agencies which had responsibility for out-station work which did not relate to my work assignment.
- E. No experience.

102. Most of my knowledge of disadvantaged youth was gained from job experience in:
- A. Counseling, guidance, and job placement of disadvantaged groups.
 - B. Recreation and supportive program work with disadvantaged groups.
 - C. General program activity which included but did not emphasize service to disadvantaged.
 - D. Agency activity which did not directly serve disadvantaged populations.
 - E. No job experience.
103. Most of my administrative and supervisory experience in these areas includes:
- A. Responsibility for supervision of staff or volunteers providing direct service to disadvantaged populations.
 - B. Administration and preparation of programs or materials without responsibility for ongoing staff supervision.
 - C. Supervision of staff or volunteers providing services to non-disadvantaged populations.
 - D. Responsibility for execution of program, no staff supervisory responsibility.
 - E. No experience.
104. Most of my work experience with rehabilitative and counseling techniques and my professional skills in these areas have been gained from:
- A. Specific job responsibilities which required counseling, treatment, or diagnostic work with disadvantaged.
 - B. Job experience which permitted observation of specific counseling or rehabilitative techniques.
 - C. Job experience which required referrals to agencies which specialized in these services.
 - D. Work in service agencies not related to counseling and rehabilitation of disadvantaged.
 - E. No job experience.
105. Most of my work experience with secondary school or college level counseling, guidance, and/or teaching includes direct experience with or program development related to:
- A. Counseling high school dropouts and/or terminal high school graduates.
 - B. Enrichment programs for culturally disadvantaged (e.g., the Higher Horizon program).
 - C. Work with discipline and behavior problems.
 - D. Educational or tutorial programs in institutions (e.g., treatment or rehabilitation centers, and state schools).
 - E. No relevant experience.

106. Most of my work experience with public or private agencies, programs or clinics, included special activities focused on:
- A. Public assistance and welfare work with disadvantaged.
 - B. Preparation of diagnostic test reports of disadvantaged.
 - C. Group or individual treatment of disadvantaged.
 - D. Child care or institutional work with disadvantaged.
 - E. No relevant experience.
107. Most of my experience with court, probation, and parole work includes:
- A. Professional case work in a juvenile court clinic.
 - B. After-care work with juveniles paroled from training school.
 - C. Juvenile aid bureau, youth officer, and related police agencies.
 - D. Probation and parole officer.
 - E. No relevant experience.
108. Most of my experience with techniques of community organization has been derived from:
- A. Community or settlement house work in a deprived neighborhood.
 - B. Church youth activities in a deprived neighborhood.
 - C. Any community youth program.
 - D. General community program work.
 - E. No relevant experience.
109. Most of my experience with job development and/or placement has been gained from:
- A. Work as a State Employment Service counselor or interviewer.
 - B. Work as a job development person in a public or private agency or community center.
 - C. Job Placement and referral as after-care worker.
 - D. Work as a vocational rehabilitation counselor.
 - E. No relevant experience.
110. Most of my experience with agency liaison and referral sources has been gained:
- A. As a community organization worker.
 - B. As an agency or clinic intake worker.
 - C. As a guidance counselor responsible for liaison with other agencies.
 - D. Through work in area redevelopment, urban renewal, or community action programs.
 - E. No relevant experience.
111. Most of my experience as a volunteer in work such as that listed in preceding items was derived from:
- A. Settlement house and community center work.
 - B. Hospital, clinic, tutorial, or rehabilitative work.
 - C. Community action work in a disadvantaged neighborhood.
 - D. National organization work not related to disadvantaged populations.
 - E. No experience as a volunteer.

112. Most of my experience as a volunteer has been for (1800 hours = one year):
- A. One month full-time equivalent or less.
 - B. Two to three months full-time equivalent.
 - C. Three to six months full-time equivalent.
 - D. Six months to one year full-time equivalent.
 - E. Over one year full-time equivalent.
113. Most of my formal work experience in areas other than those described above has been:
- A. Less than 6 months
 - B. 6 months to 1 year
 - C. 1 year to 2 years
 - D. 2 to 4 years
 - E. Over 4 years
114. In this work my job performance depended on:
- A. Continuous interaction and intimate relationship with disadvantaged people.
 - B. Technical skills (e.g., X-ray Technician) relative to work with disadvantaged.
 - C. Technical skills with little interaction with disadvantaged.
 - D. Technical skills with professional interaction.
 - E. Varied work assignment at varying levels of skill.
115. Have you served a term in prison or jail or been on parole from prison or jail within the last five years?
- A. Yes, for participation in an organized, non-violent civil rights demonstration.
 - B. Yes, because of conviction for a different offense.
 - C. Both reasons.
 - D. No.
116. From which of the following general classes of physical defects or disabilities do you suffer?
- A. Inability to move about rapidly or exert myself unduly.
 - B. Inability to see clearly and read easily.
 - C. Inability to speak clearly or hear a conversation distinctly in a noisy room.
 - D. Recurrent headaches, tension, muscular spasms, tremors, or seizures.
 - E. None of the above.
117. What have you done to try to keep healthy in the past year?
- A. Visited the doctor regularly.
 - B. Got plenty of sleep, fresh air, and exercise.
 - C. Didn't over-eat.
 - D. Stopped worrying.
 - E. Nothing in particular.
118. I have a physical disability which:
- A. Limits the range of work activities I could perform in a Youth Opportunity Center easily.
 - B. Requires me to make special adjustments in order to perform work assignments.
 - C. Does not interfere with my ability to work easily and without inconvenience.
 - D. Represents a potential threat to my ability to work in a Youth Opportunity Center, requiring me to be careful not to over-extend myself.
 - E. I have no noteworthy physical disabilities.

119. If you have had occasion to work or be associated with people whom you felt were initially prejudiced against you, or whom you felt held attitudes prejudicially related to you, which one of the following is most applicable?
- A. The attitudes improved over time.
 - B. I ultimately found it necessary to cease my association.
 - C. I became engaged in open conflict.
 - D. I was able to get along effectively with them in some areas of activity, despite their attitudes and my feelings toward them.
 - E. None of the above applies to me.

For the following two questions, think of your current or most recent job as Number 1, the job before it, if any, as Number 2, and the job before Number 2, if any, as Number 3.

120. Excluding military service, in comparison to job Number 1, job Number 2:
- A. Paid less.
 - B. Involved less responsibility.
 - C. Was less related to my interests.
 - D. Was about the same level or better in salary, responsibility, and interest.
 - E. I had no job before Number 1.

You should now be at the end of the sixth column on your answer sheet

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121. Excluding military service, in comparison with job Number 2, job Number 3:
- A. Paid less.
 - B. Involved less responsibility.
 - C. Was less related to my interests.
 - D. Was at the same level or better in salary, responsibility and interest.
 - E. I had no job before job Number 2.

122. My highest annual salary has been:
- A. Below \$2,500
 - B. \$2,600 to \$4,000
 - C. \$4,100 to \$6,000
 - D. \$6,100 to \$10,000
 - E. Above \$10,000
123. My current or most recent annual salary is:
- A. Higher than my previous salary.
 - B. Equal to the salary on any previous job.
 - C. Less than the salary on a previous job.
 - D. No previous job.
124. Have you ever been fired, discharged, asked to resign, suspended or placed on probation from your job?
- A. Yes, as part of a reduction in force or termination of a contract (i.e., laid off).
 - B. Yes, as a result of evaluations of my work or job behavior.
 - C. Yes, for personal or disciplinary reasons.
 - D. More than once, or more than one of the above.
 - E. No.

TEST INSTRUCTIONS

Your local State employment service office can tell you the time and place at which the Project CAUSE Youth Opportunity Program Training Test will be given. The testing will take between two and three hours. Bring your answer sheet, this questionnaire, a soft pencil and the following reference information with you to the testing office:

1. The name and address and dates of your association with your most recent employer, if any.
2. The name and address and the dates of your association with your employer prior to your most recent employer, if any.
3. The name and address of your college or university advisor, department chairman, or major professor.
4. The name and address of a supervisor who has observed your practical or field work in youth counseling or counseling-related activities (if this person is different from those described above).
5. Your social security number.
6. Any comments or explanations of your application answers, or additional information about yourself which you consider relevant and important to the selection staff. You will be provided with a card on which you may write these comments.

As soon after June 4th as possible but not later than June 12th bring this completed application and the above items and information to your local Employment Service office.

Mr. HORTON. It is your statement that so-called personality tests are not part of this application?

Mr. WERTS. That is correct.

Mr. HORTON. Do I have any assurance from you, as Assistant Secretary of Labor, and as one who is speaking on policy, that personality tests are not going to be given in the Department?

Mr. WERTS. That is correct, Mr. Congressman. Personality tests are against the policy and will not be given in the Department, and we are tightening up the supervision of the application of that policy. They will not be given in the Department of Labor. That is the policy.

Mr. HORTON. All right.

Now, that is in the Department of Labor. How about in these—

Mr. WERTS. Or I might add in any personnel program for which the Department has responsibility.

Mr. HORTON. Turning to the first page of your statement, you say the Secretary personally became concerned last year with the potential abuses from monitored telephone conversations. Do you monitor telephone conversations in the Department of Labor?

Mr. WERTS. Not since the Secretary learned that there were some places where telephones were being monitored by secretaries, and this astounded him, and he ordered it discontinued. We have here a copy of the order. It is really a renewal of an old policy, and it is somewhat like the situation we find ourselves in with respect to Project CAUSE.

(The material referred to above follows:)

U. S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, August 5, 1964.

SECRETARY'S ORDER NO. 26-64

Subject: Recording, transcribing, and monitoring of conversations and statements.

1. *Purpose.*—The purpose of this order is to assure that maximum efforts are taken by all officers and employees of the Department of Labor to guarantee the integrity of personal conversations or statements, and to guard against the invasion of privacy.

2. *Authority and directives affected:*

(a) *Authority.*—This order is issued pursuant to the act of March 4, 1913 (37 Stat. 736, 5 U.S.C. 611); R.S. 161 (5 U.S.C. 22); and Reorganization Plan No. 6 of 1950 (15 F.R. 3174, 64 Stat. 1263, 5 U.S.C. 611 note).

(b) *Directives affected.*—General Order No. 106 dated April 15, 1960, is hereby superseded and canceled. All other orders, instructions, and memorandums inconsistent with this order are either canceled or superseded to the extent of their inconsistency.

3. *Background.*—The invasion of privacy has been a matter of historic concern to citizens of this country. In recent years, the complexity of Federal administration and availability of recording and monitoring devices have led to practices which have been questioned by the judiciary, Congress, the press, and the public at large.

4. *Policy.*—It shall be the policy of the Department of Labor that all internal and external business be transacted with complete confidence by all parties and that, insofar as Department of Labor personnel are concerned, statements or conversations made in person or over the telephone will not be recorded, transcribed, or monitored (listened in on) without advance notification and permission. To assure that this policy is complied with, the following regulations shall prevail.

(a) The use of electronic or mechanical recording and monitoring devices in conjunction with telephones is prohibited. These devices may not be purchased, rented, leased, or borrowed.

(b) Manual verbatim transcriptions and the use of electronic or mechanical recording devices in conjunction with meetings, interviews, and conversations are prohibited unless advance notification has been given to all participants in each instance that such recording or transcription will take place.

(c) Monitoring (listening-in-on) by secretaries or other personnel of telephone conversations for the purpose of recording appointments, making arrangements, assisting with commitments, and assuring adequate followups will be permitted only after advance notification to callers in each instance that such monitoring is taking place and provided that such monitoring is not accomplished through the use of any electronic or mechanical recording or monitoring device.

5. *Responsibility.*—The enforcement of the above policy is only possible with the fullest cooperation of all officers and employees in the Department. Officials charged with direct enforcement responsibilities are as follows:

(a) Assistant Secretaries, Administrators, and Bureau and office heads shall be responsible for seeing that the policy in this order is carried out within their areas of supervision.

(b) The Administrative Assistant Secretary shall remove prohibited devices from telephones and promulgate such additional regulations as may be necessary to implement this order.

6. *Effective date.*—This order is effective immediately.

W. WILLARD WIRTZ,
Secretary of Labor.

Mr. WERTS. The policy was clear but the practice——

Mr. HORTON. The custom had grown up to monitor. How was this monitoring done?

Mr. WERTS. The secretary would listen in on the telephone, primarily for follow up of commitments made by the persons who were on the phone.

Mr. HORTON. When you say "secretary," you don't mean the Secretary of Labor?

Mr. WERTS. No; I mean the secretary to an official.

Mr. HORTON. You mean a secretary in an office?

Mr. WERTS. Right, who would listen in on a telephone conversation so she could follow up, if somebody made a promise, "I will send you a copy of this letter," or "I will get this out tomorrow," she would then be able to follow up and help.

Mr. HORTON. I am not talking about that type of thing. That is not a monitored telephone conversation, in my judgment.

Mr. WERTS. Well, in the Secretary's judgment it was, and he said this shall not happen. If you want somebody to take notes or follow up, you tell the person on the other end of the phone that your secretary is on the wire, so they will be governed accordingly.

Mr. HORTON. I understand that. That is all right. But as I understood it, this was the abuse that was detected by the Secretary of Labor?

Mr. WERTS. That is right. And in the process he said, "Let's take a look at all of the possibilities of electronic devices that might lead to this."

Mr. HORTON. That is the question I wanted to ask. Did you find any electronic devices or any listening devices that were being used on telephones by way of monitoring?

Mr. WERTS. I would say yes to this extent: There is a device you may be familiar with. You can flip a switch on a telephone so it is not apparent to the person on the other end who is calling that a person is listening in. We found a few of these on telephones, and we have taken them all out.

Mr. HORTON. Were those devices acquired by the Department from the General Services Administration?

Mr. WERTS. These were acquired from the telephone company, as a part of the telephone equipment.

Mr. HORTON. I see. But as I understand it now, so there is no mistake about it, the policy is there will be no monitoring in any manner whatsoever of telephone calls in the Department of Labor?

Mr. WERTS. Except as the person is informed, right.

Mr. HORTON. I think that is all I have, Mr. Chairman.

Mr. GALLAGHER. All right, Mr. Horton.

Mr. Secretary, these are some great questions here, too, I might say, on a casual glance, but I will yield to the other members here.

Mr. ROSENTHAL. I read these over and there are some "beauts" in there.

Mr. GALLAGHER. I wonder about this one: "I tell you like it is—it is rough out here, man—it ain't like it use to be home. When these cats get you up tight—you ain't got your people, you are nothing."

I don't know about the "cats," but I am wondering whether or not we have the same people writing new material on these questions. Here's one about churches. We seem to be back on the same old stand, about whether or not you went to church with a store front on it, whether or not you went to a big church, "The churches in my neighborhood or community were store fronts; there were no churches."

I am sure they must be helpful. I am glad we are putting some of the beatniks to work writing up the questions here and getting them out of the picket lines.

But anyhow, Mr. Rosenthal?

Mr. ROSENTHAL. The chairman picked up about where I wanted to begin. But presently, I think the problem between the Department and us is that you see a clear-cut, dramatic example of an invasion of privacy in a telephone call interception, but someone either at the top or in an intermediate stage doesn't see quite the same way the members of the subcommittee do relative to the invasion of privacy in having to answer these tests and various other offenses in the tests.

Now, this presumably is your new test, is that correct?

Mr. WERTS. This is the new application.

Mr. ROSENTHAL. Which has eliminated all of the offensive material. Now, we have had testimony here that not only are these tests an invasion of privacy—and certainly to a layman many of these questions indicate that—but we have had testimony by responsible people that there is no validity to these tests.

Now, not setting ourselves up as professionals, we are becoming more and more inclined to believe that—or at least I am—when we see these tests.

Now, on page 17, question 80: "I tell you like it is—it is rough out here, man—ain't like it use to be home—those cats get you up tight—you ain't got your people—you are nothing."

You have to pick out one of five answers. The young man is arguing for (a) family solidarity; (b) defensive street group; (c) solitary defensive activity; (d) offensive street group; and (e) group activity.

Now, of the 435 Members of this House, there isn't one who would know what to do with this. And those of us who can see beyond what the question intends, the obvious answer leads that a person who has

had some minority group experience and background would answer it one way, as compared to someone who hadn't. So, as far as I am concerned, this question is as much offensive as anything we saw in any of the earlier tests.

Now, going back a little, question 66, the Supreme Court would have difficulty with this one. It says, "Which of the following is designed to affect the social relationships between racial and ethnic groups: (a) court decisions; (b) mass demonstrations, 'the movement'; (c) Federal Government operation of installations; (d) civil rights legislation; and (e) executive decisions."

I can conceive of what you are trying to get at there, and I think if we all answered it up here, we might have varying types of answers.

Now, looking into the background of people, and eliminating obviously people from possibly low-income backgrounds, you are asking in question 29: "What was the average number of people living in your home during your childhood and your youth?"

Question 31: "Have you ever felt some important person was bending over backward to be fair to you, so you began to feel he or she was being too good to you?" And question 28: "Have you ever lived in a neighborhood with a large number of residents of the same minority group?" And this is one qualification for the job.

Question 21: "Just before your teens, how did you let off steam when you got angry: (a) by fighting; (b) by kicking or throwing something; (c) by cursing; (d) by talking it over with someone; (e) I didn't. I tried to hide my feelings."

Now, I honestly think, Mr. Chairman, that we are going to have to give the Department an opportunity to come back again with the people who are responsible for this test and let them have an opportunity to explain to us the validity, because it seems to me that some of the most offensive questions of not only the Minnesota test, but others, are contained in the new test, and this test is expected to be used after the Chairman of the Civil Service Commission said personality tests would not be used in hiring Federal employees. And you, yourself, have indicated there is a change of policy, vis-a-vis invasion of privacy. So I think we are really at a stalemate.

And I think the Department ought to be recalled so we can find out whether this new clean bill of health they are willing to call this test is just that.

Mr. GALLAGHER. I would agree. I think the Secretary is in an unfair position here this morning, since this is a new test. I would appreciate it very much if we could have the people who advocated these tests up here. I think that is the type of people we ought to question.

Question 14, I am not sure whether or not—it is a Peace Corps question—I applied for training, and it has four or five different steps. I did not apply, I was rejected, this type of thing is probably germane in the mind of someone who did or did not want to go into the Peace Corps.

But I agree with Mr. Rosenthal, that we ought to have people up here who can advise us as to what they are attempting to get at, rather than to put you on the spot here this morning to justify this.

However, since it did come up, I am sure that the members do have a right to ask about it.

Mr. Reuss—

Mr. HORTON. Mr. Chairman, could I interrupt to make this comment with regard to the statement you just made? The thing I am also concerned about, though, is the policy. And Mr. Werts represents the policy, as I understand it, the policymaking aspects of the Secretary's Office. And I think it would be appropriate to have a spokesman from the policy back after they have had a chance to go over this thing perhaps again.

That is in addition to those who apparently are making the policy, but without the knowledge of those at the policymaking level.

Mr. WERTS. Mr. Chairman, I think that is reasonable. As I indicated earlier, I am not an expert on testing. Obviously we have had some discussion of some of the guidelines on why some of the questions are raised here. The experts indicate that these are the kinds of questions that might be raised in a personal interview and this is a structured interview, so that you get a basis for comparison of individuals.

And I think in their judgment the questions asked do reveal the individual's knowledge of disadvantaged situations as the reference to the problems of disadvantaged youth, and the need of these counselors in the youth opportunity centers, and they will be less helpful to the program if they are not aware of the kinds of problems which youth in disadvantaged neighborhoods have.

And the intent here is—I agree you ought to have the experts to explain this to you—is this will identify people who are sympathetic, who are interested in helping the disadvantaged, and will help to, as my testimony indicates, get a good distribution of the ethnic and minority groups into the program who will be able to help the disadvantaged youth.

Now, as I indicated, some of these things are matters of judgment, and out judgment may not be adequate. But at least it was on the basis of this kind of presentation that we permitted this to go forward.

Mr. GALLAGHER. That may well be true, and I can understand that it is a question of judgment. But at the same time it is very discriminatory, in the Chair's opinion. It might well be that we need people who can read correctly the problems of disadvantaged youth. But why should a job applicant for this—what concern does it really have whether or not he worships God in a church with a storefront or an institutional church? I don't know of any storefront Catholic churches, for example, or Jewish synagogues. I can see the need to recognize problems, but I think what we are doing here is pinpointing the individual applicants of this particular job situation and you might just as well ask what your religion is, what your race is, because after you read three or four pages, you have a complete book on the person who must fill this out, not necessarily his own knowledge of the situation, but on him. And this is what we are dealing with.

We get only concerned with the masses and we forget about the individuals that are participating in these programs.

Mr. WERTS. On this point, if I may, Mr. Chairman, I would like to point out that all of the tests for 1964 have been burned, so they don't—

Mr. ROSENTHAL. Have been what?

Mr. WERTS. Have been burned, those that were given. The answers to the tests.

Mr. GALLAGHER. How much did they cost?

Mr. WERTS. In the neighborhood of \$13,000 to make these tests.

Mr. CORNISH. Mr. Secretary, does that include the cost of preparing the booklets, administering the tests, and then evaluating them? Is that the total cost of the personality test?

Mr. WERTS. The figure I used, which is actually \$12,997, has to do with the answer sheets—designers, Government Printing Office charges, 30 State and regional employment service personnel who evaluated the tests, the scoring template, reimbursement to States for overtime work in the scoring of tests, and that sort of thing.

Mr. CORNISH. Would that be available for insertion in the record?

Mr. WERTS. Yes.

The following is a breakdown of costs for the expense of testing nearly 22,000 Project CAUSE I applicants:

Answer sheets.....	\$440
Royalty to designers of California psychological inventory.....	750
Government Printing Office.....	3, 813
30 State and regional employment service persons who evaluated tests....	6, 882
Scoring template.....	912
Reimbursement to States for overtime work.....	200
Total.....	12, 997

The cost of testing came to less than \$1 per applicant.

Mr. GALLAGHER. Mr. Reuss?

Mr. REUSS. Thank you, Mr. Chairman.

My concern with this 1964 CAUSE personality test, as I have said before, is not simply because I want to rake up the past, but because if I may say so, Mr. Secretary, the Department of Labor's lack of repentance about it indicates you are going to keep on doing the same old thing. I note in your statement the following sentence.

Our experience with the assessment of trainees during last year's CAUSE program suggests this newly designed examination will prove to be an even more relevant and accurate gauge of an individual's suitability for employment that requires constant contact with the disadvantaged.

Well, I agree with the Chairman of the Civil Service Commission, Mr. Macy, who said yesterday that this 1964 CAUSE personality test was not the least bit relevant or accurate, and it should not be used at all. But the Department seems to be saying, even at this late date, that it is relevant and accurate.

I question your ability, very frankly, to come up with a new test or new set of hiring standards that are accurate and fair. And the questions of the Chairman and my colleagues, Mr. Horton and Mr. Rosenthal, indicate that you still are not profiting by your unhappy experience. For example, I notice you described this year's program, and I am going to read what you said there—

Through the use of computerized information, we can compare each candidate with general statements about the entire group as well as with sample groups that have the characteristics in which we are interested. We thus expect, on the basis of our interview-type application, to place our candidates in two groups, first those who have many of the experiences and background characteristics we feel desirable, and secondly, those who have few of these characteristics.

Well, that is precisely the kind of test, from your description of it, which the Civil Service Commission says should be thrown into the ash can. Yet now you propose to do it again. There isn't time this morning to go into this year's test, and I have just been confronted with it, but from your description of it, you are again thumbing your nose at the Civil Service Commission's rules.

Have you submitted this 1965 test to Mr. Macy in the Civil Service Commission?

Mr. WERTS. We have not.

Mr. REUSS. Will you do so this afternoon, sir?

Mr. WERTS. We will be very glad to make it available to him this afternoon.

Mr. REUSS. Thank you.

At this time, Mr. Chairman, I would like to offer for the record my chronology of letters to the Department of Labor, trying to find out about the 1964 CAUSE test, they being letters either from me to the Department or from the Department to me, dated November 20, 1964; December 17, 1965; January 6, 1965; February 4, 1965; February 10, 1965; February 24, 1965; and March 11, 1965. (See pp. 97-100.)

The general upshot of all of this was that the Department of Labor wouldn't tell me about the 1964 test and invited me to go and buy one of the testing company's tests to find out. Though, Mr. Chairman, on May 24, 1965, you specifically asked the Labor Department by letter to give us full information about the 1964 tests, we have practically no information on it.

(The letter referred to follows:)

MAY 24, 1965.

HON. W. WILLARD WIRTZ,
The Secretary,
U.S. Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your letter of May 20, 1965, in which you assure me that no psychological questionnaires or personality tests are used for employment or promotion in the U.S. Department of Labor.

I note, however, that such tests were used last summer in connection with the so-called CAUSE project (Counselor Adviser University Summer Education) to select youth counselors for training to serve in the youth opportunities program. I understand that the testing was financed and directed by the U.S. Department of Labor.

As you know, I have been greatly distressed by Federal participation in the conduct of such tests and am hopeful that all agencies of Government will adopt written prohibitions against them in their programs. The Honorable Henry S. Reuss of Wisconsin also has been greatly concerned about this matter, especially in how the CAUSE tests were applied in his home State.

As I informed you in my letter of May 12, the House Committee on Government Operations is engaged in an investigation of matters related to invasion of privacy by Federal agencies. One of the items under current inquiry is the use of psychological questionnaires or personality tests under Federal auspices.

As chairman of this special inquiry, I am inviting you to designate an appropriate policy official of the U.S. Department of Labor to testify on this matter at a public hearing Friday, June 4, 1965. The hearing will begin at 10 a.m., in hearing room 2203 of the Rayburn Office Building.

It would be helpful if that official could discuss in detail the justification for such tests, their cost, and whether the Department intends to utilize them again. Information also will be sought on the specific matter of their use in Wisconsin. We also would like to know what consideration was given, if any, to the invasion of privacy aspect before they were approved.

Your staff may communicate with Mr. Norman G. Cornish, Chief of Special Inquiry, room 2157, Rayburn Office Building, telephone Government Code 180, extension 4050 or 5050, concerning any additional details relating to the hearing. It would be appreciated if 50 copies of the prepared testimony could be made available to the subcommittee by June 3, 1965.

I am enclosing a copy of a statement which appeared in the Congressional Record of Monday, May 17, 1965, which I thought you might find to be of interest on this matter.

With kind regards.

Sincerely yours,

CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy.

Mr. REUSS. Mr. Werts, I would like to now refer you to the 1964 test, part II, the 158 true-false questions which you already referred to. I would like you to hand me the answers to these questions, so that we may know what answer produced what result in the efforts of these 21,000 young people to get a job with the Federal Government, thus when someone says, "I think Lincoln was greater than Washington," did that help him or hurt him in the test. Will you now hand me such a code?

Mr. WERTS. I don't have it, but I certainly will do it, if we have it, if it is available.

Mr. REUSS. Will you? And if it is not available, will you kindly take steps to immediately make it available, and present it to the subcommittee?

Mr. WERTS. Well, Mr. Congressman, as I understand this, I think this is a highly technical question which might be better dealt with when you have the experts here.

Mr. REUSS. But this committee is perfectly capable, Mr. Secretary, in evaluating and reading the results of this test. What we want to know is what is a good answer and what is a bad answer on some of these questions.

Mr. WERTS. Well, my only point is, Mr. Congressman, and I want to be a hundred percent cooperative with the committee, but I don't want to commit myself, or anyone else, to doing something we can't do. I just don't know.

Mr. REUSS. Why can't you do this? You marked 21,000 papers.

Mr. WERTS. Yes, I think I indicated earlier, however, that the tests that were given, the results of the tests have been destroyed.

Mr. REUSS. Just a minute. You didn't destroy the Rosetta stone, you didn't destroy the key. You told us a few moments ago that in the interest of privacy you destroyed the answers of the young people as to such questions as, "Do you worry much about sex?" and "I have been in trouble one or more times, because of my sex behavior," and I am glad you have destroyed those. But if you have destroyed the set of answers, the template, the stencil, this subcommittee certainly would want to know who destroyed it, when, how, and at whose orders?

Mr. WERTS. Mr. Congressman, I agree with the point you are making, that someone can indicate to you whether the answers to these questions, what impact they have on the selection of the candidate.

Mr. REUSS. I have been subjected to that for the last 8 months. Is it in order, Mr. Chairman, to ask you to issue a subpoena duces tecum for the material? It seems to me this subcommittee really ought to know the answers to these questions.

Mr. GALLAGHER. The subcommittee does have the authority to issue a subpoena and it will be done if necessary. I think what the Secretary is trying to point out, and perhaps I am interpreting this wrongly, is that you do not feel competent to testify to the technical values of this test, but you would be prepared to send up technical experts, who would be competent and qualified to do this. Is that correct?

Mr. WERTS. Exactly right, Mr. Chairman. And I would be very pleased to come along, to listen, and develop information that will be a basis for judgments we have to make later.

Mr. REUSS. We would like the technical experts, but why in the world can't we have the sheet of paper that tells us what the true and false answers are?

Mr. GALLAGHER. We want them, and we so advise you, and if there is any reluctance, we can probably do a little coaxing, with a subpoena, to bring along the Rosetta stone of the 1964 tests.

Mr. HORTON. Would the gentleman yield at this point?

Mr. REUSS. Yes.

Mr. HORTON. I am not sure I understand your position in this, Mr. Werts. Is this testing procedure under your jurisdiction directly or are you someplace off in another role?

Mr. WERTS. My responsibilities include responsibility for personnel selection, appointments, promotions.

Mr. HORTON. Then you are the top man in the Department of Labor responsible for this, is that correct?

Mr. WERTS. Other than the Secretary, that is right.

Mr. HORTON. As I understand it, you don't have such an answer sheet, and you have never seen one.

Mr. WERTS. That is exactly right.

Mr. HORTON. How long had these tests been given prior to the time you discontinued them?

Mr. WERTS. The first time and only time was in 1964.

Mr. HORTON. So that year of 1964, these tests were given, and you did not see them?

Mr. WERTS. That is correct.

Mr. HORTON. And you, at this point, have never seen the answer sheet?

Mr. WERTS. That is correct.

Mr. HORTON. Have you seen the answer sheet on the CAUSE II questionnaire?

Mr. WERTS. These have not been given yet.

Mr. HORTON. But you have an answer sheet, don't you, or you don't know?

Mr. WERTS. If there is an answer sheet, I have not seen it.

Mr. HORTON. And you have authorized this to be given?

Mr. WERTS. That is correct.

Mr. HORTON. And you haven't seen the answer sheet, and you don't know whether there is one?

Mr. WERTS. As I indicated, I don't think it is a question of an answer sheet. What the process is here——

Mr. HORTON. What is the purpose of this, Mr. Werts?

Mr. WERTS. The purpose of this is to evaluate the knowledge and background and experience of the individual in relation to the kinds of background, experience, and knowledge which is that similar to successful counselors.

Mr. HORTON. How can you tell that without having the answer sheet and knowing what the answers are, and how they are going to be evaluated?

Mr. WERTS. I suspect we are having a problem here——

Mr. HORTON. Don't suspect.

Mr. WERTS. Or I am having a problem, I should say, of knowing what you mean by answer sheets.

Mr. HORTON. What is the preferred answer. Pick one out, question 62 on page 13, "How many accidents or injuries have you had in the last 5 years (a) None; (b) 1 to 2; (c) 3 to 4; (d) over 4."

Mr. WERTS. There is no preferred answer.

Mr. HORTON. How do you grade these?

Mr. WERTS. The computer makes a pattern of the multiple choices, and it has a certain diagram, and how does this diagram compare with successful counselors, that is all. There is no correct answer. They are all part of a total factor, and individual items have no significant impact. It is the total and the pattern and the relationship and how they compare with other people, who are successful counselors, and how they indicate what their experiences are.

Mr. HORTON. Are you satisfied, in your own opinion, that you have gone into this questionnaire fully?

Mr. WERTS. Well, I think it is pretty obvious from the points made by the committee that I have not.

Mr. HORTON. Then you are not satisfied with it now, are you?

Mr. WERTS. I would say, as you have said, I am not satisfied that we have investigated it, studied it, and reviewed it as carefully as we should.

Mr. HORTON. I yield back.

Mr. REUSS. To proceed, one of the things that first concerned me about this 1964 CAUSE test, Mr. Secretary, was that it was brought to my attention in my home city of Milwaukee that even though these youth counselors were to work very largely in poor areas, populated by minority groups, and even though in Milwaukee, where one of these tests was given, the Milwaukee Urban League, an organization devoted, among other things, to finding jobs for Negroes, went out and found 60 topnotch Negro university graduates to take this test—I should add parenthetically that one didn't need to be a university graduate, but these were—none of these 60 made the program. I think one passed, but didn't enter the program.

Naturally, I have been unable to get from the Department of Labor any figures on how many Negroes took the test, out of the 21,993 people who took it, but since these were in American cities which contained very large Negro populations, including some like Washington, which contain a majority of Negroes, it is perfectly obvious that a large number took the test, yet the Department of Labor does tell me that of those selected for training, of the 1,904 who were selected for the training procedure, only 8 percent were non-whites. This seems to me very strange, and I now refer you to a statement of your presentation this morning, where you are referring to this new procedure you have adopted, and you say,

This procedure has not been used before in a Federal program and should result in a much more favorable balance of ethnic and minority groups, who understand and have experienced conditions of deprivation.

Translated into English, that means we are going to stop using questions that discriminate against Negroes, doesn't it?

Mr. WERTS. No, sir, it does not say that.

Mr. REUSS. What does it say?

Mr. WERTS. It says that we are going to use a test that will insure full opportunity to the ethnic and minority group candidates.

Mr. REUSS. Let me ask you this: In your test last year—let me call your attention to a couple of questions—No. 19: "I think Lincoln was greater than Washington." We had testimony yesterday that the proper answer to that question was that Washington was greater

than Lincoln and someone who thought Lincoln was greater than Washington flunked that question.

Mr. WERTS. May I ask—

Mr. REUSS. If the testimony yesterday was in error, incidentally, it is an easy matter for the Department of Labor, after 8 months, to produce what the proper answers were and tell this committee. But so far, since you won't tell and since we have had testimony, I assume that is true.

Now I am not a psychologist, but it does seem to me that a great many young Negro men and women might well think that Lincoln was greater than Washington, because among other things, Lincoln freed the slaves.

I find it quite shocking, frankly, that you included a question like that in your test whereby some 21,000 or 22,000 young Americans are told whether or not they can get these jobs in the poverty program, paying \$4 or \$5 or \$6 or \$7,000 a year.

Another question, No. 148, "My home as a child was less peaceful and quiet than those of most other people."

Now again I am not a sociologist, or psychologist, but the fact is that many Negroes in our society live in overcrowded slum or near-slum areas, and I am told yesterday by the witness that the flunking answer to that question was that, yes, your home was less peaceful and quiet.

Mr. WERTS. May I ask who—

Mr. REUSS. The witness yesterday? Yes, it was a man named Gross who has written a book about, among other things, the Minnesota Multiphasic Personality Inventory, which is a set of some 500 questions compiled largely by a study of 800 manic depressive schizophrenics, paranoids, and others, in Minnesota mental institutions, and which is apparently the test for which the Department of Labor paid the several thousand dollars which you indicated was paid to a commercial testing outfit for this test.

Now I had hoped that this sentence in your statement today, that you were going to try to achieve a just balance of ethnic and minority groups, was an analysis of the mistake you made, and a resolution to do better, and I am disturbed to hear you deny that it was. This is too bad, as far as I am concerned.

Let's turn now to the right to privacy, which I would emphasize is only a part of what this subcommittee is looking at. We are, of course, concerned about the right to privacy. But we are concerned also with the competence, efficiency, and justice of governmental employee selection methods. But let's look at the right to privacy, and which I believe your testimony was that you not only aren't violating it now, but you didn't violate it last year in the 1964 CAUSE test. Is that correct?

Mr. WERTS. Substantially that is correct.

Mr. REUSS. I call your attention again to certain questions in the 158 questions which you asked. Take question 118, "I have been in trouble one or more times because of my sex behavior."

I now refer you to the official U.S. Department of Labor publication, "Manpower Administration, Bureau of Employment Security, Selection of Applicants for Youth Opportunity Training Program," which purports to be a description of how you conducted last year's program.

Are you familiar with that document?

Mr. WERTS. I have seen it.

Mr. REUSS. I now ask you to turn to appendix M, which is the guidance for the markers of these exams, with particular reference to the 158 questions we have mentioned. I now shall read to you the bottom paragraph on that page of appendix M, criteria sheet No. 7:

If there is any evidence of legal infraction, other than civil rights demonstrations and offenses, or mention of emotional illness, or indication of a severe handicap, confinement to wheelchair, deaf, blind, et cetera, the full rating should be done and the application then set aside for special consideration.

From this sentence it looks to me very much as if in addition to whatever other purposes you were using these 158 questions for, you were using them to get personal information about these people, and then for whatever purposes you wanted.

Now let's be perfectly clear, I want you to get all of the relevant personal information about your people, but your testimony this morning was that you did not, under the guise of these 158 true-false questions, seek to obtain this personal and private information. You may answer either now or later for the record how you square that with the mandate to your examiners, which I just read.

Mr. GALLAGHER. Will the gentleman yield before the Secretary answers the question?

Mr. REUSS. Yes.

Mr. GALLAGHER. The same question reappears in the new set of questions, under a different mask. Question 115 reads, "Have you ever served a term in prison or jail, or were on parole from prison or jail within 5 years. Yes, for participation in organized nonviolent civil rights demonstration; yes, for conviction for other reasons, or no."

So I think we worm our way back to this thing constantly. I really feel that this could be very detrimental to minority groups, the very groups that perhaps we are attempting to assist. It does not suppose at all that minority groups themselves perhaps could be trained as youth counselors, and if it does, then this sets up a discriminatory foundation. And I personally feel it is quite insulting to Negroes, the whole line of questioning in this new test because there are certainly an equal number of people who are Negro, and who can answer these questions without having to break it down into beatnik talk or find out as to how they stand on these situations. I just don't feel that social scientists have any special license to invade a person's privacy, merely under the guise of studying human behavior.

I yield back.

Mr. REUSS. Who, in the executive branch, authorized this group of 158 questions and decreed they should be put to the 21,993 young people who wished to serve their country?

Mr. WERTS. I don't have the specific name, but I have the individuals who are responsible. Whether they personally did it or not, I don't know. It would be the Administrator of the Bureau of Employment Security, and the person on his staff who is responsible for Project CAUSE.

Mr. REUSS. Will you give the names of those two people?

Mr. WERTS. Mr. Goodwin is the Administrator of the Bureau of Employment Security, and Mr. Harry Kranz is director of the unit that supervises the Project CAUSE.

Mr. REUSS. Who does Mr. Goodwin report to?

Mr. WERTS. He reports to the Manpower Administrator, who is Stanley Ruttenberg.

Mr. REUSS. Who does Mr. Ruttenberg report to?

Mr. WERTS. He reports to the Secretary, or the Under Secretary.

Mr. REUSS. You are not in this chain of command?

Mr. WERTS. No, sir.

Mr. REUSS. I have been informed by the Department of Labor and this will appear in the correspondence which I have filed with the committee, that 158 questions were designed to sort out and test the 21,993 applicants with respect to 5 human qualities—flexibility, responsibility, psychological-mindedness, socializationality, and tolerance. Would you tell us what “psychological-mindedness” means?

Mr. WERTS. I don’t know what the writer had in mind, not having seen the whole correspondence.

Mr. REUSS. Well, you have as much as I had and as much as the examiners had, namely, the single word, “psychological-mindedness.”

Mr. WERTS. I couldn’t tell you what it means.

Mr. REUSS. What does “socializationality” mean?

Mr. WERTS. My guess would be someone who is—who has the ability to meet with people, and get along with them, interested in getting along with, meeting, and dealing with people.

Mr. REUSS. You would, I guess, be able, as I guess even I would be able, to make a guess as to what “flexibility,” “responsibility,” and “tolerance” would mean?

Mr. WERTS. Yes.

Mr. REUSS. So, only two of the five human quantities are beyond our grasp.

Mr. WERTS. Well, just one is beyond mine, I think, Mr. Congressman.

Mr. REUSS. Well, you are one up on me. Now, this money you spent on the test, what psychological testing service, outside of the Government, did you pay it to?

Mr. WERTS. The report indicates it was a royalty paid to the designers of the California Psychological Inventory.

Mr. REUSS. That is a profitmaking corporation, is it not?

Mr. WERTS. I couldn’t tell you at this time.

Mr. REUSS. How much did you pay them?

Mr. WERTS. \$750.

Mr. REUSS. I was further told that the way the designers of this test worked out who was flexible, responsible, tolerant, and those other two words, and who wasn’t, was by giving a series of questions to two groups of people, one of which the master, whoever it is, had decided was a group of people who were flexible responsible, tolerant, and so on, and the other a group which the master had decided was inflexible, irresponsible, intolerant, and so on. This is what I am told by your Department. Do you have any reason to believe that is not in accord with the facts?

Mr. WERTS. I have no information on it, so I couldn’t say.

Mr. REUSS. I will ask you this question and perhaps you can answer it. How did the master, whoever made up this test, decide, in the first place, who was flexible, responsible, tolerant, psychological-minded, and socializational, and who wasn’t? Because it seems to me this whole thing is a feedback from what some person, unknown to us, had to decide about the human soul some years ago.

Mr. WERTS. I don't have the answer to that. I think that is a question which is appropriately presented so the experts.

Mr. GALLAGHER. Mr. Secretary, to get back to my earlier suggestion, would it suit your purpose, Mr. Reuss, if the Secretary did have his experts come up here on the technical aspects of this? Perhaps he is not competent to answer this.

Mr. REUSS. Obviously, the witness is not competent——

Mr. GALLAGHER. I mean to testify to the technical aspects of it.

Mr. REUSS. But what bothers me, though, is the fact that it seems here rather starkly revealed that policymakers don't seem to think it is their business to know what they are doing, and to ask this kind of question. I would hope, therefore, that the technicians could be accompanied by someone who is willing to say, "Yes, this is my responsibility; I was the man who picked the 158 questions, and here is how the answers were selected."

So I think, in addition to the other information I have requested, we should have that kind of a person, or at least speaking for myself, that is the kind of witness I had hoped, after 8 months, the Department was going to send up this morning, and I am waiting eagerly for such an appearance.

Mr. GALLAGHER. Would the Secretary be prepared to reevaluate not only this new questionnaire, but the whole policy pertaining to this type of thing, and accompany the experts when they do appear, the technicians, so that we can have not only a full explanation of the propriety of the questions asked, but the propriety of the policy itself? Would that be satisfactory?

Mr. REUSS. Yes, Mr. Chairman. I think we should see—we should first have the documents which we have requested, such as the answers to the 158 questions, so we know what answer, or what result an answer that "Lincoln was greater than Washington" produced.

Mr. GALLAGHER. Could that be provided in advance, Mr. Secretary?

Mr. WERTS. Yes.

Mr. HORTON. Mr. Chairman, could I ask a question at this point? I didn't have this before me before, and I wanted to ask a couple of questions about this CAUSE II.

Mr. GALLAGHER. I think we should have this as part of the record.

Mr. HORTON. First, I wanted to ask about the cost of this Project CAUSE II application questionnaire. Do you have some breakdown on the costs of that?

Mr. WERTS. We don't have it, but we will be glad to supply it.

(The material referred to above follows:)

ESTIMATED COST OF CAUSE II APPLICATION QUESTIONNAIRE

Following is an approximate breakout of the cost of producing and processing the application for Project CAUSE II:

Printing 75,000 copies.....	\$15, 810
Mailing of application to States, individuals.....	3, 400
Processing by CEIR, Inc.—Machine programing and scoring time.....	2, 000

Total.....	21, 210
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Mr. HORTON. I would like to know under what conditions this CAUSE II application questionnaire is supposed to be used.

Mr. WERTS. This is an application form which individuals may secure, and if they wish to apply for training under CAUSE II, they

will fill this out and return it to the appropriate people, and then this will be an indication that they are interested in applying for training under this program.

Mr. HORTON. Are you mailing these out broadside to any selected competitors, or is this a case of where someone applies to the Bureau and you send out this questionnaire and he sends in his answers?

Mr. WERTS. The State employment security agencies have these forms. They have been requested to distribute these applications to the local agencies, local offices, and other recruiting points so they are available to individuals who ask for them. The fact is that the project has been publicized and people are told in the publicity where to apply.

Mr. HORTON. How many of these have you caused to be prepared, and, of those, how many have been sent out?

Mr. WERTS. I am informed 75,000 copies have been printed.

Mr. HORTON. How many of these have been sent out?

Mr. WERTS. I would assume most of them would be distributed, except for working copies at headquarters.

Mr. HORTON. Is it safe to assume that they are now in the hands of applicants and being submitted?

Mr. WERTS. They are not in the hands of applicants as yet.

Mr. HORTON. Mr. Reuss made some mention of instructions to examiners which were used in the 1964 test. Do you have a similar instruction sheet, or instruction brochure to examiners for this one?

Mr. WERTS. I do not have it.

Mr. HORTON. Is there one?

Mr. WERTS. I am sure there must be.

Mr. HORTON. Can that be furnished to the committee?

Mr. WERTS. Right.

Mr. HORTON. Could that be furnished to the committee before you appear again?

Mr. WERTS. Yes, sir.

(The material referred to above follows:)

In reply refer
to AT

U. S. DEPARTMENT OF LABOR
Bureau of Employment Security
Washington, D. C. 20210

General Administration Letter No. 876
June 2, 1965

TO: ALL STATE EMPLOYMENT SECURITY AGENCIES

SUBJECT: Project CAUSE II Procedures for Application-Taking,
Reference Mailings, Test Security, Test Administration,
and Reporting

REFERENCES: GAL 866, 867, -10C Series No. 43 and 871

PURPOSE: To describe the specific procedures for taking applications, for filling out applicants' reference cards and Master Cards, for reporting tests received and returned, and for administering the CAUSE II test for applicants for training as Master Degree Counselors and as Counselor Trainees.

This letter outlines the administrative procedures for administering the CAUSE II selection process at the State and local level. A general over view of the selection process was described in GAL 871, which indicated that selection is to be based on an application designed for automatic data processing, a civil service type examination, and references. This letter specifies the directions for the use of these sources of information.

This letter does not apply to those States in which the selection for CAUSE II will be carried out by the State's civil service or merit system, or in which the CAUSE II quota for the State will be met by people on appropriate State registers and for current employment service employees.

Selection for CAUSE II makes extensive use of automatic equipment which represents a considerable savings in cost, and which provides the only system by which large numbers of applicants may be screened by the small Selection Staff available to CAUSE II. To some extent, the use of automatic processing displaces some of the complexities of selection from the Selection Staff to the local offices. In the time available, hand screening is impossible, so that the success of the selection program must depend almost completely on the care the local office takes in insuring that the forms meet the requirements of the machines. Improper handling of the forms and/or failure to follow instructions may adversely affect the candidate's chances for selection.

APPLICATIONS

Applicants will answer the application questions on a special multiple choice answer form, printed on both sides, with one side printed in blue and labelled "Application Answer Sheet." The other side, printed green, is labelled "Test Answer Sheet," and is to be used for recording answers to the CAUSE II test (see below). Applicants are instructed, in the Application Questionnaire, to fill out the application side of the answer sheet, and then to take the answer sheet to their local employment service office between June 4 and 12. When the applicant reports, the local office should have him fill out cards for references, as described below, and a Master Card. At this time, the

local office may examine the Application Answer Sheet for completeness, and minimum qualifications for CAUSE II. If the applicant does not report before the time scheduled for the national CAUSE test, the following procedures should be carried out immediately following the testing:

1. Completeness. The Application Answer Sheet should be examined to insure that there is one choice marked for each of the 124 items, that there is no more than one choice marked for any item, and that there are no more than 124 items answered. The applicant may correct his answer sheet if he has marked more than one answer for an item, or if he has left out an item. Erasures are permitted, but they must be clean and thorough. Make sure applicant has used a soft pencil.
2. Name. Applicant's name, social security number, and address must be entered in the appropriate places on the answer sheet. If the applicant has no social security number, leave the space blank.
3. Condition of the Answer Sheet. The answer sheet may be folded, if it is a neat fold. If the answer sheet is torn or irregularly creased, it must be redone on a fresh sheet.
4. Minimum qualifications. All applicants for the Counselor Trainee and Master Degree Counselor levels must be citizens of the United States have attained at least a bachelor's degree (candidates will be classified by the data processing machines in the higher class, on the basis of other information contained in the application), and be at least 21 years of age. Citizenship is indicated by the applicant's response to question 3. To qualify, he must have marked choice D. Degree is indicated by his response to question 4, in which he must have marked any choice other than A. If he has marked choice E (professional or other degree), interview the applicant to make sure that he has at least a bachelor's degree. The answer sheets of applicants who do not qualify under these terms are to be retained by the local office, for forwarding to the CAUSE II Selection Office at a date to be announced later.

The applicant must enter his age on the Application Answer Sheet, in the "Birth Date" code box in the upper right corner of the page. In the two empty boxes under the word Month, have the applicant enter the number of the month of his birth. If the number is two digits, he should put the first digit in the first box, and the second in the second box. There should be no more than one digit per box. If the month is a one-digit number, it should be placed in the second box of the two (See the examples below). The applicant should enter the day of his birth in the two boxes under the word Day, again using the first box for the first digit and second for the second digit, or for a single-digit day. The third entry is the year of birth, to be entered in the two boxes under the heading Year (using only the last two digits of the year of birth). When these dates have been entered, and if the applicant is 21 years of age or older, have the applicant blacken in the spaces in the columns under the numbers he has entered, in the spaces matching the numbers he has entered into the boxes.

Examples:

An applicant born on January 13, 1930:

BIRTH DATE				SEX	IDENTIFICATION NUMBER			
MONTH	DAY	YEAR						
1	1	3	0	1				
0	0	0	0		0	0	0	0
1	1	1	1		1	1	1	1
2	2	2	2		2	2	2	2
3	3	3	3		3	3	3	3
4	4	4	4		4	4	4	4
5	5	5	5		5	5	5	5
6	6	6	6		6	6	6	6
7	7	7	7		7	7	7	7
8	8	8	8		8	8	8	8
9	9	9	9		9	9	9	9

An applicant born on November 9, 1938:

BIRTH DATE				SEX	IDENTIFICATION NUMBER			
MONTH	DAY	YEAR						
1	1	9	3	8				
0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9

The second step is to fill in the applicant's identification number, as described in the next section of this letter.

IDENTIFICATION NUMBER

Envelopes containing nine data processing cards are being distributed to State agencies for redistribution to local offices, in sufficient number to provide at least one envelope for each applicant. These envelopes contain prepunched and coded cards, as follows:

1. Four red-printed reference Answer Cards, containing space for the applicant to enter the names and addresses of his references, and identifying information about himself and his relationship to the reference.

2. Four yellow-bordered Comment Cards, on which the applicant is to enter his name and address.
3. One brown Master Card, containing space for the applicant to enter his name, address, and social security number, and space for other entries to be described below. This precoded card also bears a number in the upper left corner which becomes the applicant's CAUSE II Identification Number.

One Answer Card and one Comment Card will be sent to each of up to four references named, as described below. The Master Card is to be filled out and sent by the local office to:

Project CAUSE II
Data Processing Office
P.O. Box 8100
Philadelphia, Penna. 19101

After entering the applicant's date of birth on the Application Answer Sheet, give the applicant an envelope containing the nine cards. Have the applicant fill in the Master Card, printing clearly for easy legibility. In the box for social security number, the applicant should put one digit in each box.

When the Master Card has been filled in, have the applicant record for his future reference his Identification Number, which is printed in the upper left corner of the Master Card. He should use this number in all inquiries or correspondence concerning CAUSE II. It is this number which is to be entered in the "Identification Number" code box in the upper right corner of the Application Answer Sheet; its presence there becomes the means for the automatic machines to identify the individual who completed the application. Have the applicant enter his Identification Number in the five empty boxes under the heading "Identification Number" in the code box, one digit per box. The applicant should then blacken in the space in each column corresponding to the digit he has entered in the box at the head of the column. A soft pencil should be used.

Examples:

Identification Number 10572

BIRTH DATE				SEX	IDENTIFICATION NUMBER					
MONTH	DAY	YEAR								
					1	1	0	5	7	2
0	0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9

Identification Number 81490

IDENTIFICATION NUMBER					
2	8	1	4	9	0
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

When this has been done, the same entry of Identification Number should be made in the code box on the reverse side of the Answer Sheet. The reverse side, printed in green, is the Test Answer Sheet, and has space for the Identification Number in a code box in the upper right corner. Check to make sure that the numbers entered on each side of the sheet are identical to that on the Master Card.

The candidate should also blacken in the single space printed in the column headed "Side" on each side of the Answer Sheet. On the Application Answer Sheet side, this space corresponds to the "1" printed at the head of the column. On the Test Answer Sheet side, the space corresponds to the "2" printed at the head of the column. This step provides the scoring machine with an identification of the side being scored.

The instructions to the applicant in the Application Questionnaire suggest that he bring with him to his local employment service office any notes or comments he may wish to make to amplify, explain, modify, or extend any of his answers to the application questions. Such comments are to be made on the back of the Master Card at the time that the applicant fills it out. Be sure that the applicant identifies the application question number to which each comment applies.

If the applicant makes such entries on the back of the Master Card, he should signify this by blackening in the space for choice B in the answer space for item 125 on the Application Answer Sheet. If he makes no comments on the back of the Master Card, have him blacken in choice A for item 125. This step will make it possible for the automatic equipment to identify those applicants whose Master Cards must be individually studied.

Question 2 of the Application Questionnaire asks if the applicant's State of residence is different from the State indicated in his mailing address. If the answer to that question is choice B (Yes), have the applicant enter his permanent residence address on the bottom of the Master Card, so that if selected, the applicant can be assigned to the quota of the proper State.

The applicant should also enter his age at his last birthday in the space provided on the Master Card.

This completes the Master Card. At the end of each day, the local office should send the completed Master Cards on hand to the address indicated above.

REFERENCE CARDS

Be sure that the applicant fills out the reference Answer Cards and Comment Cards from the same envelope as the Master Card he has completed. All cards in the pack of nine are prepunched with the same identification number in machine-readable form, and if the reference cards filled out are from a pack other than that from which the candidate's Master Card came, and thus have a different Identification Number punched in them, the references for an applicant will be ascribed by the machines to some other applicant.

In the Application Questionnaire, the applicant is instructed to take to the local office the following names and addresses:

- a. His current or most recent employer, if any.
- b. The employer before the current or most recent one, if any.
- c. His college or university advisor, major professor, or department chairman.
- d. A supervisor of his youth counseling-related practical work, if any, and if different from the above.

Thus the applicant should bring with him the names and addresses of from one to four references.

One red-printed reference Answer Card from the pack should be filled out for each of the above references. The applicant must be sure to fill in the information requested in blocks 1 and 2 of the Answer Card, in order to help identify himself to the person named as reference. He should write the reference's name and address clearly and legibly in the space provided.

If any of the Answer Cards in the pack are dirty or smudged with black, throw away the entire pack of nine, and use a fresh pack.

In filling out blocks 1 and 2 of the Answer Card, the applicant must make no marks anywhere in block 3. A stray line or writing will be sensed by the optical scanner and will be interpreted as a response to the questions about the applicant asked of the reference, and so scored.

The applicant should refrain from handling the Answer Card in such a way as to make finger marks in block 3. If possible, he should not touch the surface of that part of the card, on either front or back because of the sensitivity of the optical scanning equipment to skin oils and carbon. He may handle the card in the areas covered by blocks 1 and 2.

When the applicant has filled out as many of the four Answer Cards as he has appropriate references for, he should put his name and address on a like number of the yellow-bordered Comment Cards.

Either the local office staff or the applicant should then place one Answer-Card and one Comment Card in the pre-stuffed window envelopes which have been sent to State agencies for redistribution to local offices. Each of the pre-stuffed envelopes is for one reference. Therefore, the distribution should be four times the expected number of applicants (i.e., four times the number of test booklets distributed). These envelopes are distributed prestuffed with a letter and questionnaire addressed to the reference person and a return addressed franked envelope for the reference's use in returning his answers to the questionnaire. The applicant or the local office staff should place the Answer Card in the envelope so that the name and address of the reference appear in the window. The envelope should then be sealed and mailed at once to the reference, to give him as much time as possible to respond with his evaluations of the applicant.

The Answer and Comment Cards out of the pack which are unused by the applicant (i.e., by applicants who have less than the four kinds of references described above) should be immediately torn and discarded in the local office, so that they do not become confused with the unused complete packs of nine cards on hand. These left-over cards may not be used for any other applicant; they are already prepunched with an Identification Number which has been assigned to the applicant who filled out the Master Card belonging to the pack of nine from which these leftover cards came.

SUMMARY OF APPLICATION, MASTER CARD, AND REFERENCE CARD PROCEDURES

You will have received for redistribution to local offices the following materials: (a) one pack of nine cards containing a Master Card, four reference Answer Cards, and four reference Comment Cards for each expected applicant; and (b) four window envelopes prestuffed with a reference questionnaire and a return addressed envelope for each expected applicant (one for each of up to four references per applicant). These materials will be used as follows:

1. Application and Master Card
 - a. Check number of answers per item (no more than one per item), number of items answered (no more than 124), and condition of sheet.
 - b. Check eligibility (item 3, choice D; item 4, choice B, C, D, or E).
 - c. Hold Answer Sheets of ineligible applicants for later return to Project CAUSE II Selection Office.
 - d. Check age and have applicant enter date of birth in code box on Application Answer Sheet side.
 - e. Assign pack of nine cards to applicant, and have him enter the Identification Number of the assigned Master Card in the code boxes on both sides of the Answer Sheet. Check the entered Identification Number against the number in upper left corner of the Master Card.
 - f. Have applicant blacken in the answer space printed in the column headed "Side" in the code box.
 - g. Have applicant fill in Master Card with name, address, social security number, and age at last birthday.
 - h. If State of residence is different from State of mailing address (application question 2, choice B), have applicant write permanent address of legal residence on bottom of Master Card.
 - i. If applicant has additional material to supplement his application answers, have him write it on the back of the Master Card, and mark choice B in the answer space for item 125 on the Application Answer Sheet. If he has no such material, have him mark choice A of item 125.
2. Reference Cards
 - a. Have applicant fill out name and address of references on the red-printed Answer Cards, his name and address, the dates of his association with the reference, and his capacity or status at the time of his association.

- b. Have applicant enter his name and address on the black-printed Comment Card for each Answer Card he fills out.
- c. Check to make sure that no marks or writing appear in Block 3 of the Answer Cards.
- d. Place each filled-out Answer Card, together with a Comment Card, in a prestuffed window envelope containing preaddressed return envelope and a reference questionnaire, and send at once to the reference whose name and address appears in the window.
- e. Destroy unused Answer and Comment Cards left over from packs in which the Master Card has been assigned to an applicant and filled out by him.
- f. At the end of each day, send the completed Master Cards on hand to

Project CAUSE II
Data Processing Office
P.O. Box 8100
Philadelphia, Penna. 19101

3. A sample check-off sheet to cover the above items is attached to this letter. (See attachment 1)

TEST SECURITY

It is of utmost importance that test security be maintained, to preserve the utility and validity of the CAUSE II Selection Test, which may be adopted in part or in toto by several State civil service and merit systems. The following procedures have been developed to insure such security:

Each State agency will be sent a receipt form. The appropriate office of the State agency should sign the receipt, enter the date on which the tests arrived, identify his agency, and enter the actual number of tests received and their serial numbers. This receipt should be returned at once to:

Project CAUSE II
U. S. Department of Labor
Bureau of Employment Security
Washington, D. C. 20210

In addition to this receipt, the State agency will be sent a form in triplicate which is to be used as follows:

- Copy 1. Item 1, identifying the number of test booklets and their serial numbers, and the local office addresses to which they were redistributed, should be filled out at the time of distribution to local offices. Copy 1 should then be detached and sent to the address above.
- Copy 2. Copy 2 should be sent to the local offices along with the test booklets. The local office recipient should fill out item 2 on copy 2 upon receipt, and mail it to the above address.
- Copy 3. Item 3 on the third copy is to be completed by the local office upon return of the booklets to CAUSE II, at the above address, when testing has been completed.

Samples of the above forms are attached. (See attachment 2.)

State agencies will be notified of missing booklets, and requested to take appropriate action to insure that all tests are returned to CAUSE II.

TEST ADMINISTRATION

Numbered CAUSE II test booklets are being distributed to State agencies for redistribution to local offices. All test booklets received must be kept under security.

National testing is scheduled for about June 12, 1965. The State agency may set the hour and place for testing. The test for administration time is 2-1/2 hours, exclusive of time used in filling out the reference cards and checking over the application forms. It is not a speed test; many applicants will complete the 110 items in less than the allotted time. But the full 2-1/2 hours should be allowed for slower applicants. The applicant will answer the test on the Test Answer Sheet side of the Application Answer Sheet. No more than one answer is permitted for each question, and there should be at least one answer for each question. The applicant should use a soft pencil, preferably a No. 2.

When applicants assemble to take the test at the date and hour fixed by the State agency, they should be seated so that they have room enough to work without being able to see each other's answer sheets. If there are more than 20 applicants, there should be one or more proctors to help the test administrator, with one proctor for every additional 20 applicants. Thus, for 21 to 40 applicants, the administrator of the test should have one proctor to help him; for 41 to 60 applicants, he should have two proctors.

The test booklets should be distributed, one to each applicant, after all the applicants have been seated and are ready. In addition to the test booklet, each applicant should be supplied with a piece of scratch paper, and make sure that he has a soft pencil for marking his answers.

After the test booklets have been distributed, the following instructions should be read, loudly, clearly, and slowly, so that each applicant can hear the directions.

INSTRUCTIONS TO TEST APPLICANTS

"Applicants for both Counselor Trainee and Master Degree Counselor will take the same examination. You should keep this in mind since, for this reason, some of the questions may seem to you to be unusually difficult or unrelated to your knowledge and experience. All questions must be read and considered carefully, and you are to give the best answer you can to every item. This examination alone will not determine whether you are accepted for CAUSE II. Examination results are one factor in the selection process. Other factors that will be considered are your background of training and experience, as contained in your answers to the Application Questionnaire, and references provided by the people whose names you have supplied."

"Now open your test booklet and read the directions." (Allow sufficient time for the applicants to read the directions.)

"Do you have any questions?" (Answer any questions about procedures.)

"Mark your answers only on the Test Answer Sheet. Do scratch work on the blank paper which has been provided. But make no marks in the test booklet, or on the answer sheet, other than your answers. You will have 2-1/2 hours to complete the test. It is not a speed test, and you should have plenty of time to finish all the items."

Applicants who finish the test before the time limit may turn their Answer Sheets and test booklets in to the test administrator when they are finished. Their Answer Sheets may be inspected for completeness at that time. The administrator should be sure that the applicant has filled out the Master Card and the reference cards before the applicant leaves, if the applicant had not already done so.

When the 2-1/2 hours are up, the following instructions should be given:

"Stop. The time is up for the test. I will now collect your Answer Sheets and test booklets. Those of you who have not yet filled out reference cards, Master Cards, and entered an Identification Number on your Answer Sheet will be asked to remain to complete these parts of the application process. Those who have completed all forms may leave when their test booklets and Answer Sheets have been collected."

As the Answer Sheets and test booklets are collected, making sure that every test is returned, the administrator should check to make sure that each applicant has filled out the Master Card and reference cards, and entered his Identification Number on the Answer Sheet, as described earlier in this letter. Those applicants who have not completed these materials should retain their Answer Sheets until the other applicants have had a chance to leave, at which time the administrator should distribute the 9-card packs, and give the instructions for filling out the code box on the Answer Sheet, and for filling out the cards, as described earlier in this letter.

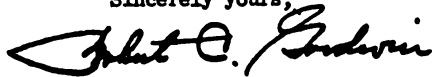
The collected test answer sheets should be mailed, air special, immediately upon conclusion of the testing session to:

Project CAUSE II
P.O. Box 196
Fairless Hills, Penna. 19030

State agencies will be notified of the date to return test booklets in a later letter. Test booklets must be kept secure at all times until returned.

Rescissions: None

Sincerely yours,



Robert C. Goodwin
Administrator

Attachments (2)

1. Check Sheet for Project CAUSE II Application Taking.
2. Youth Opportunity Program - Trainee Test Control Form.

Check Sheet for
CAUSE II Application Taking

Application, Master Card, Reference Cards

- _____ No more than one answer per item.
- _____ An answer for each item up to and including 124.
- _____ Answer Sheet in good condition.
- _____ Item 3 marked D.
- _____ Item 4 marked B, C, D, or E.
- _____ Applicant 21 years or older.
- _____ Date of birth entered in code box on Application Answer Sheet. Appropriate spaces blacked in.
- _____ Identification Number from Master Card entered in code box on Application Answer Sheet side.
- _____ Identification Number entered in code box on Test Answer Sheet side.
- _____ Answer space in code box column headed "Side" blacked in on each side of Answer Sheet.
- _____ Master Card filled in with applicant's name, Social Security number, mailing address, age on last birthday.
- _____ If state of residence different from mailing address, permanent address entered on bottom of Master Card.
- _____ Comments written on back of Master Card (If yes, mark B for Item 125 on Application Answer Sheet. If no, mark A for Item 125.)
- _____ Reference Answer Cards filled out.
- _____ Reference Comment Cards filled out.
- _____ Block 3 of Answer Cards kept free of marks.
- _____ Each completed reference Answer Card and one Comment Card put in pre-stuffed envelope and mailed to reference.
- _____ Unused reference cards destroyed.
- _____ Application questionnaire turned in.
- _____ Completed Master Cards mailed to:

Project CAUSE II
Data Processing Office
P.O. Box 8100
Phila., Penna. 19101

Selection Test

- _____ Test booklet collected.
- _____ Test Answer Sheet complete (one answer per item, 110 items answered.)
- _____ Answer Sheet collected and mailed to:

Project CAUSE II
P.O. Box 196
Fairless Hills, Penna. 19030

U.S. DEPARTMENT OF LABOR
BUREAU OF EMPLOYMENT SECURITY
WASHINGTON, D. C.

Youth Opportunity Programs - Trainee Test Control Form

To be completed upon receipt of the Youth Opportunity Program Trainee Tests
and returned to U.S. Department of Labor, Bureau of Employment Security,
Project CAUSE II, Washington, D. C.

Serial Numbers of booklets received:

Numbers _____ to _____ Total _____

Signature _____

Title _____

Address _____

Date _____

COPY 1

U.S. DEPARTMENT OF LABOR
BUREAU OF EMPLOYMENT SECURITY
WASHINGTON, D. C.

Youth Opportunity Programs - Trainee Test Control Form

Item one to be completed by the State Office upon disbursement of test booklets to local offices.

1. a) Local office _____ State _____ Local Office No. _____
b) Serial numbers of booklets issued _____

Numbers _____ to _____ Total _____

Signature _____ Title _____

Item two to be completed by the local office upon receipt of the Youth Opportunity Program Trainee Test.

2. Serial Number of booklets received:

Numbers _____ to _____ Total _____

Item three to be completed by the local office upon return of test booklets and answer sheet to Washington.

3. Booklets and Answer Sheets Returned

Serial Numbers of test booklets returned to Washington:

Numbers _____ to _____ Total _____

Number of completed multiple choice answer sheets sent _____

Date completed answer sheets returned _____

Signature of Local Office Manager _____

Instructions

- 1) Forms must be in triplicate. Please insert carbon in triplicate form to insure all information is transferred to copies two and three.
- 2) Copy one, item one, is to be completed by the state office. Copy one is then detached and sent to U.S. Department of Labor, Bureau of Employment Security, Project CAUSE II, Washington, D. C.
- 3) Copy two, item two, is to be completed by the local office upon receipt of the test booklet. Copy two is then detached and sent to CAUSE II.
- 4) Copy three, item three, is to be completed by the local office upon return of the booklets to Washington. Copy three is then sent to CAUSE II.
- 5) ALL COPIES MUST BE SIGNED.

Mr. HORTON. Have you hired examiners for the purpose of giving this test?

Mr. WERTS. I don't know the answer, exactly. The test will be given in local employment offices.

Mr. HORTON. Who is going to "grade" the test? I don't know that that is the appropriate word, but who is going to grade it?

Mr. WERTS. Mr. Congressman, this again, is a question which could be more appropriately dealt with by the experts than myself.

Mr. HORTON. Aren't you concerned, as a policymaker, as to who is going to grade this?

Mr. WERTS. Yes, in the sense that we want to make sure it is in conformance with policy. But this, as indicated here, provides—

Mr. HORTON. The point I am trying to find out, are computers going to grade it, or individuals?

Mr. WERTS. This will be graded by the computer.

Mr. HORTON. The computer is going to come out with an answer and you pick people out of the computer, is that right?

Mr. WERTS. The computer will give several scores which will then be used as a part of the process of selection.

Mr. HORTON. What is the purpose of the instructions to examiners that you just mentioned, then?

Mr. WERTS. It has to do with how to administer the test, how to process the test.

Mr. HORTON. So it has nothing to do with the evaluation of the questionnaire?

Mr. WERTS. I could not say, because I have not seen it. But we will make it available.

Mr. HORTON. Mr. Werts, you tell us now you have not seen the instructions to the so-called examiners?

Mr. WERTS. I have not.

Mr. HORTON. But you are concerned about this right of privacy and the policy of the Department of not invading that right of privacy?

Mr. WERTS. That is 100 percent correct.

Mr. HORTON. You don't feel then these tests invade the right of privacy?

Mr. WERTS. Mr. Congressman, I think it would be fairer for me to say when I came I had one view; I may have a different one now, after the education I have had this morning with the committee.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Well, I think this goes back to the original point the chairman made, that while it was not the intention of the Department to violate the privacy of the individual concerned—the net effect may well have been just that. And if this committee can serve any purpose at all, it is the hope that we can get the technicians together with the policymakers on this matter and remedy the situation.

Government social scientists try to justify their examination of human behavior on grounds that their work is an impersonal thing. And perhaps it is. But their study does not justify the very insidious invasions of privacy of the individuals who are subjected to this type of test.

So, Mr. Werts, on the basis that we have already agreed, we will meet again and you will bring your technical people. In the meantime please reevaluate your CAUSE II application, and furnish us with "the Rosetta stone." And please provide us with the cost on this

latter set of tests, and will you notify the committee when you are prepared and when you have gathered this information?

Mr. WERTS. I would be glad to do that, Mr. Chairman, and I would like, if I may, after the Congressman asks his questions, to make two points.

Mr. HORTON. Would you also be prepared to answer, the next time you return, whether or not there are any other questionnaires that are sent out by your Department—

Mr. WERTS. We will do so.

Mr. HORTON. And also have copies of those available, along with the answer sheets, or whatever information might accompany those questionnaires.

Mr. WERTS. We will do that, yes, sir.

I would like to make clear at this point in the record, some inferences were made that some effort on the part of the Department and the people running Project CAUSE to discriminate against minority groups—

Mr. REUSS. If I may interrupt you right there, since I was the person who raised this, you must be referring to me. And let me make it very clear that that is not what I said.

What I said, and what I repeat, is that I am sure the Department of Labor didn't have the slightest intention or desire to discriminate against minority groups, but by the result of this frivolous and ill-thoughtout use of a test which, on the basis of all I have heard, is at best worthless for this purpose, discrimination did in fact occur, as evidenced by the fact that in a program which takes place largely in the minority group areas of our cities, this test produced such a tiny percentage of minority group members who are to participate in that program.

So be sure to comment on that, but not on something I didn't say.

Mr. WERTS. I appreciate that.

But my point is that my knowledge is—and I think this can be supported—that this testing process was used to be sure that we did get minority groups into this program. And I think the material which the Bureau of Employment Security must have supplied you has an indication that I think 9 percent of the applicants who took the test were in the process—and as I have indicated, 8 percent of those selected were in minority groups. So, in terms of those who applied, the selection was pretty good.

Mr. REUSS. How many applied for selection?

Mr. WERTS. I understand 9 percent.

Mr. REUSS. No. How many of the 21,993 people who took the test were members of minority groups?

Mr. WERTS. An estimated 18 percent. And roughly 50 percent were selected.

Mr. REUSS. Well, in the first place, this is news to me. Because previously, as the record will establish, the Department of Labor has assured me they couldn't tell how many of the 21,000 who applied for the test were members of minority groups, because they didn't ask. And I accepted this.

Now you tell me of the 21,000 who took the test, 18 percent were nonwhites. You also tell me that 8 percent of those who were selected for training were nonwhites. It therefore seems to me that you have perhaps quite inadvertently proved my point, that the Negroes who

came through this test were diminished about 50 percent, about half, percentagewise, over other groups. If the test had operated fairly, 18 percent, not 8 percent of the Negroes, would have been selected for training.

Therefore, I ask you to do what you, to my regret, have not done—take a look at this test, see what the “Rosetta stone” tells you, find out about its method of application, find out how many of the manic-depressives, paranoiac, and other mentally ill in Minnesota were in fact members of minority groups; find out how many of various other groups that were thrown into the computer at one or another time in the last 25 years were members of minority groups.

If you do this, you may have a better answer to the question of why, as you now tell me, 18 percent Negroes applied but only 8 percent made the grade.

Mr. WERTS. Mr. Congressman, I will be very glad to review, as you have suggested. However, my limited mental processes here of handling mathematics would indicate that minority groups were dealt with equally well with other groups.

Mr. HORTON. Would the gentleman yield?

Mr. REUSS. I would like to yield in a second. But I would like my colleagues to check my arithmetic.

Mr. ROSENTHAL. You are absolutely right.

Mr. REUSS. If 18 percent Negroes applied out of the total who applied, and only 8 percent out of the total who made it were Negroes, it does seem to me that—

Mr. ROSENTHAL. They suffered twice as much as others who took it.

Mr. REUSS. That somehow or other they came out less well than white folks in this test. And since the point of the exercise was to provide people to exercise responsibility over young people in youth opportunity centers, in very largely Negro areas, this doesn't seem to me a result which should be quite the cause for congratulations, that the Department of Labor seems to think it is.

Mr. WERTS. Well, let me just add a comment to that.

Mr. REUSS. May I yield to my colleague?

Mr. GALLAGHER. Perhaps the Secretary would like to answer the question first.

Mr. WERTS. I think the Congressman is correct, that my limited computer up here has not worked properly on the percentages.

But I will still say very positively that this program and the testing process was intended to improve the opportunity of minority groups and ethnic groups to participate in this program.

(The following was later submitted by the Department of Labor for insertion in the record:)

NEGRO APPLICANTS FOR PROJECT CAUSE I

Since it is against policy to ask for a racial designation, the 18 percent figure is based on a sample of 100 applications that was taken and analyzed in order to give the Department some indication of overall racial origin.

Analysis of the applications for indexes of Negro origin revealed that 18 percent of the applicants were Negroes. During the first week of training, university faculties were asked to do a count of trainees by color. On this basis, it was determined that 169, or 9 percent, of the 1,885 trainees on campus at that time were Negroes.

Mr. REUSS. I will stipulate your intentions were of the best. What we are concerned with, however, is what methods you did use and what was the quality of elbow grease and brainpower you put into it.

Mr. HORTON. The question I wanted to ask, I thought I understood you to say that this test in 1964, that process was especially designed to favor minority groups. Is this the policy of the Department? And is this—

Mr. WERTS. I don't believe I said favor.

Mr. HORTON. What is the policy?

Mr. WERTS. The policy is to insure that the minority groups, the ethnic groups, have equal opportunities, and we eliminate the kinds of points, which I think the committee has made very effectively, which may tend to stand in the way of equal opportunity.

I would just like to make one final point, if I might.

Mr. GALLAGHER. Yes.

Mr. WERTS. I made reference to this earlier. I think the policy is clear and the intent is clear, but I am willing to admit, in terms of my own knowledge and experience here today with the committee, that the points of view expressed by the various members have proven very helpful in my education, and I can assure you that the privilege I have had of learning with you this morning will be used to advantage in the proper application of the Secretary's policy.

Mr. GALLAGHER. Thank you very much, Mr. Werts.

The witness is excused.

(Mr. Werts later submitted the following answers to questions which the special inquiry had posed during the preceding hearing:)

1. *Question.*—Why were personality tests given to applicants for CAUSE I and what benefits or problems came from the use of such a screening device?

Answer.—With the expected large number of applicants to CAUSE I, it was thought necessary to use some procedure which would permit selection from the pool of those who passed the cognitive test, since the number of training spaces available was smaller than the expected number who would pass the test. The selection procedures for CAUSE I included a civil service-type cognitive test with a passing point set at the 50th percentile of college graduated Employment Service interviewers. This assured that everyone above that point had sufficient abilities to successfully complete training and to perform well in a Youth Opportunity Center. It was thought that further selection should be geared toward identifying those applicants who would be able use their intelligence and knowledge appropriately and effectively in work with disadvantaged youth. How people use their abilities and knowledge is an aspect of personality. Therefore, scales were selected which were designed to measure the specific parts of personality which were considered to be relevant to the job.

As it turned out, there was no need for this additional selection device. Everyone who passed the cutoff score on the cognitive test received an invitation to accept training. Furthermore, the specific test was not successful in refining the selection of trainees from among those who had demonstrated sufficient intellectual ability.

2. *Question.*—Describe all tests and questionnaires that will be administered to CAUSE II applicants and trainees, and explain their use, purpose, and by whom they will be administered and evaluated.

Answer.—The CAUSE II selection procedures include a 110-item civil service-type cognitive test drafted by the Division of State Merit Systems of the Department of Health, Education, and Welfare, and a 124-item application questionnaire. A cutoff score has been established on the cognitive-type test. It is expected that all those who score above the cutoff level will have sufficient intelligence and knowledge to absorb the training successfully so as to perform in the youth opportunity program. Selection from among those who have passed this examination was on the basis of responses to an application questionnaire containing 124 items. These items are the result of an effort to convert a

traditional application format into a form amenable to machine processing, together with an effort to standardize the kinds of questions which are typically asked in job interviews.

In order to accomplish this, numbers were assigned to the various alternative responses so that when summed, the selection staff would have available a number which summarizes the information given by the applicant in the questionnaire. These numbers were assigned so that a high summary score was in the direction of indicating that the applicant had relevant experience, an interest in working with disadvantaged youth, intimate familiarity with the conditions of poverty, and a level of skill in understanding and responding as a counselor to case situations drawn from work with disadvantaged youth. Applicants were ranked from highest to lowest on the basis of these summaries of their responses and selected in that order by the CAUSE II selection staff.

At each training site, an assessment officer has been appointed by the university to monitor student progress through the training program. He will interview and observe trainees during their academic training, followup with trainees' supervisors during field training, and administer a vocational interest test to all trainees. This test will assist in guidance and provide research data both on the selection process and on the interest patterns of those who select youth counseling as a career. One other test, such an intelligence or achievement test, may be administered by assessment officers in order to assist in making a final recommendation regarding trainees' placement in youth counseling work.

All assessment officers have been informed of the firm policy in effect for CAUSE II that no tests may be used for an assessment of the personality characteristics of trainees without the specific advance approval of the Department of Labor.

It is the policy that approval will not be given for tests which would constitute an invasion of the trainee's privacy. Procedures have been established to insure that all access to assessments of trainee performance will be restricted to qualified professional educators, except for summary recommendations regarding the trainee's job placement, which will be communicated to prospective employing agencies upon written permission of the individual trainee.

3. *Question.*—There has been considerable discussion as to the correct answers to such questions as, "I think Lincoln was greater than Washington" and "My life at home was always pleasant." What are the correct answers to these questions which were used in CAUSE I? Please provide a technical explanation of how values were assigned to these and similar types.

Answer.—Criticism concerning the above-type questions is based mainly on the premise that a candidate is asked to reveal aspects of his personal sentiments and behavior that others do not have the right to inquire into. However, this criticism stems from a view of the items that is somewhat different from that of the psychologist. The psychologist is interested in neither the candidate's political or religious philosophy or his ability to get along with his parents; he simply uses the candidate's responses to these items as a means for comparing the candidate with other people whose characteristics and traits may have only indirect bearing upon the actual content of the items.

To be more specific, let us take the example of "I feel there is only one true religion." This item is one of many items used to come to some conclusions about that aspect of the subject's personality that the test authors refer to as "tolerance." They define "tolerance" as the possession of "permissive, accepting, and nonjudgmental social beliefs and attitude." It has been found through actual investigation that those persons found to be tolerant by independent means (i.e., by means involving the use of nontest materials) tend to answer the question about "one true religion" as false; therefore the item is included in the "tolerance" scale—not because it is correct but only because it showed an actual relationship to tolerance. If the test author had found the opposite relationship, the item would have been keyed as true, rather than false, for its inclusion in the tolerance scale.

With this explanation in mind, let us look at some of the other items that have been objected to. Several of them are used to determine the extent to which the candidate is strong on the personality dimension of "socialization"—i.e., his degree of social maturity, integrity, and rectitude. Some of these socialization items are: "I think Lincoln was greater than Washington," "My life at home was always very pleasant," "My table manners are not quite as good at home as when I am out in company," "The members of my family were always very close to each other," and "My home life was always happy." All of these are keyed for true; that is, true answers have tended to correlate with those who are high in socialization. Similarly, other items are keyed false for socialization. They

are: "I often feel as though I have done something wrong or wicked," "My parents have often disapproved of my friends," "I often go against my parents' wishes," and "I hardly ever get excited or thrilled." It should be noted that it is a preference for Lincoln, not for Washington, that earns credit for the candidate on the socialization scale. A preference for Washington over Lincoln might earn credit for the candidate on a different scale, defining some other trait which was not relevant to selection for counseling with disadvantaged youth.

The clearest example of this kind of use of items is in the following item, which credits the subject positively whether he answers true or false: "I think I am stricter about right and wrong than most people." If he indicates true, he is credited as high in socialization, because it has been found that those subjects who have been found to be socially mature—or "socialized"—tend to answer the item in this particular way. But if the subject answers false, he is still credited, but this time with flexibility, since those subjects rated as flexible tend to answer the item as false. Hence, the main concern is not how strict the subject is about right and wrong, but how flexible and/or socialized he is.

4. *Question.*—The Standard Form 57, Application for Federal Employment, elicits information relating to infractions of law. Why was that format considered inadequate for CAUSE II?

Answer.—The format of the form 57 is not compatible to machine scoring. Therefore, it was necessary to design the question so that it could be marked for optical scanning. Arrests for civil rights demonstrations were not to be considered as falling in the same class as other legal infractions.

5. *Question.*—How many of the 124 CAUSE II questions have been validated as truly well calculated to found judgment of inclusion or exclusion of trainees? On what basis and upon what data were they validated?

Answer.—The only questions in the application which function to exclude applicants were those dealing with the minimum qualifications for selection. These include citizenship, the possession of a bachelor's degree, and previous course work. In addition to the items which ascertained that the candidate met these minimum qualifications, there were 10 items included to obtain census-type data about the group of applicants. Two items are concerned with physical fitness and disabilities which might interfere with job performance. One item was concerned with language fluency which would provide a special qualification for applicants in some areas of the country.

Another large group of items on the application were those concerned with the quality and quantity of the applicant's educational and relevant job experience backgrounds. Eighteen items fell in this class. Twenty items of the application present colloquial vignettes drawn from case experience with disadvantaged youth. The applicant's responses to these items indicate his understanding of the communications of the client and his ability to respond appropriately as a counselor to those communications. These items are, in effect, a work sample of the kind of activities for which people are being selected. This kind of work sample has been used extensively in research on counselors and on therapists. Where used, the content of the items are specifically selected to be appropriate to the work setting in which the counselors are employed. These items are thus an adaptation of a standard procedure.

Another group of 20 items is designed to determine the extent of the applicant's familiarity with the values and conditions of disadvantaged populations. These items were constructed in ways similar to the procedures used in the construction of items for civil service tests. That is, a large pool of items was constructed, and these items submitted to experts for their judgments. Questionable items were disregarded. The experts selected for review of these items included people with direct involvement in various poverty programs relating to youth such as the Paterson Task Force for Community Action, Haryou-ACT, the New York School of Social Work, Office of Economic Opportunity, Washington Action for Youth, the New York City Youth Board, HEW juvenile delinquency programs, Urban League, the Department of Community Organization, and the University of Chicago School of Social Service Administration.

While objective data on this point are lacking, it is the prevailing judgment among professional workers in organizations specializing in work with disadvantaged populations that personal experience and familiarity with the disadvantaged is an important job qualification for such work.

6. *Question.*—How many of the 124 questions have not been so validated but are rather in a nature of experimental?

Answer.—The entire selection process, including its unique adaptation to automatic data processing, is experimental. While many questions used in the

selection process have been used before, and many are of the same form as questions which have been used before, their adaptation to the selection of trainees for Project CAUSE is necessarily experimental. The complete selection process will be evaluated and an item analysis conducted for an evaluation of the role each item played in predicting successful training and successful job performance.

In addition, after further review of the application questionnaire during the month of June, 19 questions were found to be of questionable validity and the answers discarded for purposes of selection.

7. *Question.*—Has the CAUSE II application questionnaire been used before as a screening device? For comparable applicants? With what results?

Answer.—The CAUSE II application questionnaire in its present form has not been used before as a screening device. Many of the items on the questionnaire were selected from a bibliography of questionnaire items developed by Standard Oil of Indiana and used by that firm and by others in various personnel selection programs. Other items are of a similar type, although different in content, from those used to screen and place counselors in academic counseling settings.

8. *Question.*—What kind of control group has taken this questionnaire? How was the group selected?

Answer.—Within the time available, pretesting of the application questionnaire was done with carefully selected sample populations chosen to reflect particular characteristics, as well as a smaller subgroup chosen for control purposes. Pretesting served two basic functions: (1) as a systems test for the computer program, and (2) as a means for making decisions on the cutoff score to be used with the cognitive test, which was also tested on the same populations. The populations used in the pretesting included master degree counselors at Ohio State University, a sample of white advanced undergraduates at Tuskegee Institute involved in a summer outreach project and another sample of Negro Tuskegee students in the same project; a sample of University of North Dakota students, all of whom were certified teachers preparing for Project Headstart training, and a group of University of Michigan graduate students studying applied psychology. These groups were selected in order to provide comparisons among people of equal educational levels but varying in involvement in antipoverty work.

9. *Question.*—How many persons were either "excluded" or not accepted for CAUSE II training solely because of their inadequate exposure to poverty or lack of personal familiarity with the problems of the disadvantaged? Give a breakdown by number and State.

Answer.—The items concerned with the candidates' familiarity with problems of the disadvantaged contributed 25 percent to the applicant's total ranking. As indicated above, no applicant was excluded on the basis of his application responses alone. Each applicant's total ranking, which determined the order of his selection, was based on four factors involved in the application, only one of these being his familiarity with poverty. Once the applicant's rank was established, selection was made down to the quota for that State in order of the ranks. In the majority of States, all applicants who passed the cognitive, civil service type test were offered invitations to training, without regard to rank based on application responses. However, until a complete analysis of the application items can be performed, it will not be possible to determine whether any applicants who were not selected might have been offered an invitation to training had their responses to this section of the application been different.

10. *Question.*—Provide an estimate of the number of minority applicants who were accepted for training in CAUSE II. If not currently available, how soon can this be provided?

Answer.—At the time of this testimony, 1,552 trainees have arrived on campus. Of this group, 299 are Negro, making up 19.3 percent of the total group. Another 40 of the 1,552 are Puerto Rican trainees at Catholic University in Puerto Rico. The survey of the number of Negroes selected and in training will be updated when the trainee population has been completed and will be available by July 25. Further breakdowns on minority group status with reference to other racial and/or ethnic and religious groupings is not contemplated.

The trainee group on which the figures are reported here is composed of trainees recruited nationally through the CAUSE II selection, and trainees selected by their States of residence from merit system registers in those States and from among the employees of the State employment services. It is our estimate that among those trainees who were nationally selected through the CAUSE II selection process, 25 to 30 percent are Negro. A definitive count of this group of trainees will be available on July 25.

11. *Question.*—Has the Civil Service Commission reviewed and commented on the CAUSE II Application Questionnaire?

Answer.—On June 4, 1965, the Department submitted a copy of the CAUSE II Application Questionnaire to the Civil Service Commission for comment. Commission representatives met with Department of Labor representatives and analyzed the various items contained in the document. Following a review of the basic purpose of the application questionnaire and a comparison of it with standardized civil service methods, the Commission sent the following letter to the Department:

"JULY 19, 1965.

"Mr. LEO R. WERTS,
*"Assistant Secretary for Administration,
 "Office of the Administrative Assistant Secretary,
 "U.S. Department of Labor,
 "Washington, D.C.*

"DEAR MR. WERTS: This is in reply to your request for my comments on the Project CAUSE II Application Questionnaire, as suggested by the Special Inquiry of the House Committee on Government Operations. My staff has discussed in some detail with your representatives the use of this questionnaire in your program for selecting applicants for training as counselors.

"I have reviewed the questionnaire, and I see no serious problem of invasion of privacy, especially since the scoring plan deals only with the total score of the applicant on certain groups of items and the response of an applicant to a particular question is not singled out or identified. I understand that for various reasons, five questions have been eliminated from the scoring of the questionnaire.

"Our main reservation has to do with a set of 21 questions which were designed to help identify within the total group of applicants those who have been brought up in deprived circumstances or through experience have a firsthand knowledge of disadvantaged groups. In ordinary Federal personnel recruiting and examining, we would not consider it appropriate to attempt to identify members of a specific cultural subgroup and to give these applicants special consideration for selection, where there is no evidence that the members of this one subgroup are clearly better qualified for the work to be done. However, in the staff discussions, your representatives stressed that in the light of the purposes of the CAUSE II project, it seemed reasonable for an effort to be made to bring into training persons who are themselves drawn from underprivileged groups.

"We understand that, to meet your deadlines for beginning the training classes at various schools and after discussions had been held by Mr. Kranz of your Department with individual members of the special inquiry, the Department has carried out in the past few weeks the original scoring plan. This plan provided for using the set of 21 questions in determining the order in which applicants, otherwise qualified, should be invited to training. We have been informed that to fill the training quotas in most areas of the country, every eligible and available person has already been invited to training. Thus, it appears that the 21 questions have in fact had little impact on the opportunity of any particular eligible.

"However, our staffs agreed that this unexpected outcome does not eliminate the need for a full reappraisal of such a questionnaire before it should ever be used again. This reappraisal must include adequate research and pretesting to meet technical standards, and thorough review of each question in terms of possible invasion of privacy. Furthermore, the necessity for singling out a special cultural subgroup of applicants by this or any other appraisal device must be clearly justified. My staff will be available to consult with yours on these matters if and when further use of the device is planned.

"I am forwarding a copy of this letter to the special inquiry of the House Committee on Government Operations and returning for your files the keyed copy of the questionnaire in the enclosed confidential envelope.

"Sincerely yours,

"JOHN W. MACY, Jr., *Chairman.*

NOTE.—Since the original meetings between the Civil Service Commission and the Department of Labor took place, a total of 19 out of 124 questions were eliminated from the scoring plan for purposes of selection. (See question No. 6.)

(The 19 questions excluded from the CAUSE selection are as follows:)

* * * * *

11. How many times have you been married?

- A. Never
- B. Once
- C. Two or more times

* * * * *

21. Just before your teens, how did you "let off steam" when you got angry?
- By fighting.
 - By kicking or throwing something.
 - By cursing.
 - By talking it over with someone.
 - I didn't—I tried to hide my feelings.
- * * * * *
55. Thinking about my most recent job, my course of studies at college
- directly prepared me for that job.
 - had a substantial but indirect influence on my choice of job.
 - had only the most general relation to my job.
 - had no influence one way or the other.
 - might have influenced me against my choice of job.
56. In relation to work in youth service activities, my experiences at college
- directly prepared me for this work.
 - involved a substantial but indirect preparation for this work.
 - had only the most general relation to this work.
 - had no relationship one way or the other.
 - might have influenced me against such work.
57. By the time you finished high school, how did you feel towards your life's occupation?
- Knew what I wanted in the way of a job and have not changed my mind.
 - Thought I knew what I wanted but have since changed my mind.
 - Had some idea of what I wanted to go into.
 - Had little or no idea of what I wanted to go into because I was interested in many things.
 - Had little or no idea what I wanted to go into because few things interested me.
58. Did you change your major while in college?
- Never
 - Once
 - Twice
 - Three times
 - More than three times
59. How many different jobs have you held during the last three non-student years?
- One
 - Two
 - Three
 - Four or more
 - I have not had three non-student years.
60. When you take a vacation, which do you prefer?
- Like to plan all the details in advance.
 - Like to make general plans, but let the details take care of themselves.
 - Like to take spontaneous trips and recreation.
 - Never take a vacation, or just work or loaf around home.
 - Have to spend vacation time working for extra money.
61. In the last five years, how many times have you been given a ticket for a moving violation while driving a motor vehicle?
- Have not driven a motor vehicle in the last 5 years.
 - No tickets.
 - 1 ticket.
 - 2 to 3 tickets.
 - 4 or more tickets.
62. How many accidents or injuries have you had in the last 5 years?
- None
 - 1 to 2
 - 3 to 4
 - Over 4
63. How has your health and physical fitness been since the age of 18?
- Exceptionally good.
 - Good, suffering few minor illnesses.
 - About like the average persons.
 - Somewhat of a handicap.
 - Definitely a handicap.

64. How much time on the average, in the last five years, have you lost from work or studies because of illness?
- Almost none.
 - Two or three days a year.
 - One to two weeks a year.
 - More than two weeks a year.
65. During the past five years:
- I have been hospitalized for severe emotional or nervous problems, from which I am now fully recovered.
 - I have been hospitalized for severe emotional or nervous problems from which I have largely recovered.
 - I have been in office treatment for a nervous or emotional condition which has interfered with my work, and am now fully recovered.
 - I have been in office treatment for a nervous or emotional condition which has interfered with my work, and am now largely recovered.
 - None of the above.
66. Which of the following is designed to affect the social relationships between racial and ethnic groups?
- Court decisions
 - Mass demonstrations—"The Movement"
 - Federal government operation of installations
 - Civil rights legislation
 - Executive decision
- * * * * *
97. Which one of the following have you disliked most about the way you have been treated in any job you have held?
- Poor personnel practices.
 - Lack of communication, and cooperation between staff.
 - Poor pay.
 - Lack of recognition.
 - Resistance to new ideas.
- * * * * *
117. What have you done to try to keep healthy in the past year?
- Visited the doctor regularly.
 - Got plenty of sleep, fresh air, and exercise.
 - Didn't over-eat.
 - Stopped worrying.
 - Nothing in particular.
- * * * * *
120. Excluding military service, in comparison to Job Number 1, Job Number 2
- Paid less.
 - Involved less responsibility.
 - Was less related to my interests.
 - Was about the same level or better in salary, responsibility, and interest.
 - I had no job before Number 1.
121. Excluding military service, in comparison with Job Number 2, Job Number 3:
- Paid less.
 - Involved less responsibility.
 - Was less related to my interests.
 - Was at the same level or better in salary, responsibility and interest.
 - I had no job before Job Number 2.
- * * * * *
123. My current or most recent annual salary is:
- Higher than my previous salary.
 - Equal to the salary on any previous job.
 - Less than the salary on a previous job.
 - No previous job.

12. *Question.*—What has the Department done to really implement its policy against invasion of privacy? What will be done to assure that officials take proper cognizance of their responsibility to guard against recurrences similar to last year's CAUSE I test?

Answer.—Following the hearings on June 4, 1965, a thorough review was made of all questionnaires and tests used to recruit, select, and promote Department of Labor employees. In no instance was anything found which can be used to measure the personal characteristics of individuals.

A review of all projects and programs employing non-Federal personnel whose salaries are principally paid out of Federal moneys administered by the Depart-

ment of Labor is currently underway. The Department is not aware that Federal funds are being used to carry out personality testing in any personnel program, but will take immediate prohibitive action if this is found to exist.

Although the present policy against invasions of privacy is considered adequate, the Department of Labor is further extending and implementing the enforcement both of this policy and the forthcoming new Civil Service Commission regulations. A Secretary's order is currently being drafted which prohibits the use of personality tests and related devices in filling positions within the Federal service and extends this prohibition into all other personnel areas subject to the Department's jurisdiction.

Mr. GALLAGHER. Mr. Charles Luce, Administrator, Bonneville Power Administration, Department of the Interior. Mr. Luce has another appointment on the Senate side, and we wish you would go as long as you can, and perhaps you can be recalled this afternoon.

(Whereupon Charles F. Luce was duly sworn.)

**TESTIMONY OF CHARLES F. LUCE, ADMINISTRATOR, BONNEVILLE
POWER ADMINISTRATION, DEPARTMENT OF THE INTERIOR**

Mr. GALLAGHER. Please proceed.

Mr. LUCE. Thank you, Mr. Chairman and members of the committee.

My name is Charles Luce. I am the Administrator of the Bonneville Power Administration, which is an agency in the Department of the Interior. I have held this job for the last 4 years, prior to which I was in the private practice of law. I have provided to the staff of the committee a written statement, which I can either read or insert in the record and summarize as the committee would prefer.

Mr. GALLAGHER. Whatever you would prefer.

Mr. LUCE. I would suggest in the interest of time I should summarize it.

Mr. GALLAGHER. Yes. We will insert your prepared statement in the record.

(The statement of Mr. Luce appears on p. 178.)

Mr. LUCE. The Bonneville Power Administration, as I mentioned, is an agency of the Interior Department. Our headquarters, by law, are required to be in the Northwest, in the vicinity of Bonneville Dam. We are responsible for marketing power generated at Federal projects in the Columbia River, which is the greatest power river in North America.

At the present time we market power from 21 Federal dams, and there are 6 others under construction, from which we will market power.

The power system of Bonneville represents installed capacity of almost 7 million kilowatts of power, which is as large or larger than any privately owned utility in the United States. We have some \$2 billion worth of capital invested in power facilities, including corps and bureau dams, and some 10,000 miles of high-voltage and extra-high-voltage transmission lines. Our management problems at Bonneville are in many ways similar to those of privately owned or publicly owned non-Federal utilities. We are not, though we are within the Interior Department, an ordinary Government agency, as regards our responsibilities and management problems.

For example, the Bonneville Administration supplies about 50 percent of all of the electric power used in Oregon, Washington, Idaho, and western Montana. We will soon be interconnected with Cali-

fornia and Arizona, and be sending tremendous quantities of power southward to the great metropolitan areas of the Pacific Southwest.

Because of the nature of our organization we are, of course, always anxious to improve efficiency, to improve our way of doing business. Our executives must deal with the executives of the top utilities in the West, as well as the manufacturers who provide the equipment that we have to purchase.

Our construction budget this year, I might say, is \$100 million. Our gross annual receipts are running about \$90 million, and they will soon go over \$100 million, all of which goes into the U.S. Treasury.

About 2 years ago we took a look at the staffing problem that we were going to have in view of our very large construction program and we also at the same time took a look at the retirements problem we had. The Bonneville Power Administration was a depression-born agency, and a lot of our top people came into the agency during the late thirties and early forties.

When we made this so-called attrition study, we found that a very large number of our top employees were going to be retiring in the next 4 or 5 years. So the combination of the expanding construction program, plus the fact that we were going to lose a number of our key employees, caused us to look around for ways of improving our personnel selection policy in regard to promotions into these key jobs.

Now in many ways the problems that we have in selecting key personnel are similar to what Chairman Macy described to this committee as involved in the selection of an airport tower traffic supervisor, because if we have a chief operator, for example, who, in a stress situation, would go to pieces, he can throw whole cities into darkness. He can, by his mistakes kill men, linemen who are out on the line repairing lines. He can throw off aluminum plants, which constitute one-third of our sales, and freeze the pots at the plant. So it seemed to me we should examine what the private utilities were doing, and other public agencies, in the way of improving their personnel selection procedures and see if we couldn't learn something.

Consequently I talked to representatives of private utility companies, I talked to representatives of the public agencies, and I found that one thing they were doing that we weren't is what is called psychological testing.

Now a lot of this psychological testing, or the great majority of it, pertains to ascertaining aptitudes and interests and achievements. It also, however, includes a component wherein you attempt to evaluate the temperament of the individual being tested, and it is these personality tests that are under consideration by the committee and considerable criticism. I had had some experience with the matter of personality testing in the private practice of law.

For example, for many years I served on the vestry of our church and I for several years was the senior warden of the church, during which time we had the job of selecting a new rector. I knew from that experience, as well as from trials of cases that I had had in private practice, that psychological testing was used in filling certain positions where emotional stability was an important qualification of the job. And so for example in the Episcopal Church, psychological testing is used for all candidates to the clergy. In fact the instructions from the church headquarters in New York recommend this, and

recommend certain of the personality tests that the committee has here, which have been mentioned this morning.

Mr. ROSENTHAL. Could I interrupt a second? How many men do you have in this highly responsible, sensitive position, that you referred to?

Mr. LUCE. Well, I would say about 50. We have tested for 29 positions only. I want to get into that. We don't have a mass testing program, such as was described earlier this morning.

Well, in any event, with this background, I felt we should take a look at psychological testing as an aid to our problem, not as an attempt to supplant our judgment, or to let computers or anyone else make the decisions that management has to make if it is going to do its job. So we retained two firms that specialize in this kind of counseling, one from Los Angeles and one from Pittsburgh. And in order to be sure that, as applied to the electric industry and applied particularly to our own situation, this testing would have meaningful results, we did this, before we decided to go into a larger program, we selected 10 employees, who had been with us for a substantial length of time, one of them in fact was about to retire, men whose strengths and weaknesses we knew, and we asked them to take the test. We didn't compel them, nobody is compelled to take the tests. And they did. And we were surprised, or "pleased," I suppose is the word, at the remarkable correlation between the results of the appraisals resulting from the tests and what we knew about the way these men performed on their jobs. This convinced me that for our operation, and for certain key positions, psychological testing would be worth using.

Now I emphasize not as a touchstone as to whether a candidate for promotion does or doesn't get the promotion, but as one factor that we would consider when we were filling a critical job.

Now as a lawyer I realized right away that there was an important question of privacy involved in these examinations—I suppose in all of the examinations, but particularly in those that involved the personality analysis. So we had the question of whether to hire a staff psychologist at Bonneville and try to do this ourselves, or to get outsiders. It was my conclusion that we should not have anybody in Bonneville administer or evaluate these tests, but rather to attempt to establish a doctor-patient relationship, with an independent consulting firm that was highly regarded among the profession. And so we went that route. We employed the two firms that I mentioned. We set up various safeguards for the privacy of our employees.

First of all, we provided that no Bonneville employee other than the man taking the test sees the answers. The answers are sealed and go to the consultant, the consultant evaluates the answers, then talks with the employee in a counseling way, following up leads that are suggested by the answers to the written questions. Then the consultant gives us a written appraisal of the candidate's qualifications for the job. I have a sample appraisal here, if the committee would like to see what one looks like. It is, of course, not related to any specific employee, because that would indeed, as the chairman pointed out, be invading privacy.

Then the consulting firm destroys the answers. So at no time are the answers ever seen by anybody in Bonneville, and they are destroyed after the evaluation is made. The evaluation is not put in

the personnel jacket of the employee. The evaluation is kept in the safe of my deputy administrator, whose office is across the hall from mine, separate and apart from the personnel jacket of the person who has been tested.

As I have mentioned, we do not do this on a mass production basis. Of the positions that have been filled in the last 2 years, since we instituted this program, we have tested less than 10 percent. We do not use it at all on new employees, we use it only on promotions into what I have referred to as the key jobs.

We have put out criteria to our top people who are making the employment selections, cautioning them not to go overboard on these tests, but rather to use them as one factor to be considered. We have found that they are particularly useful in further interviews and discussions with the employee. The costs of these tests have been inquired about by a letter the chairman sent to Secretary Udall. We have spent thus far approximately \$15,000 in the testing program, about half of which was spent with the Los Angeles firm called Aptitude Testing for Industry and the other half with the Pittsburgh firm called Psychological Services of Pittsburgh.

In February of this year we consolidated our testing in one firm, namely the Pittsburgh firm. And we did not renew the contract with the Los Angeles firm.

Mr. GALLAGHER. Why?

Mr. LUCE. Well, there were several reasons we didn't. First of all, the Pittsburgh firm, we found, through its representing a number of other utilities and doing work for other utilities, could bring to us a broader experience that would be more helpful to our management and to our employees, in helping to get the right people in the right job.

Secondly, we had gone through the initial phase of testing, we had tested for more than half of the key positions in the agency. We concluded we only needed one consulting firm. There was no point in hiring two to do that job which one could do.

As I say in my statement, I don't think the Bonneville Power Administration will collapse if we cease making these tests. But we do think that they have been of considerable value. We think they are of value not only to management, but to our employees, as we use them, with the safeguards we have thrown around them.

I am aware that the Civil Service Commission has in the last week changed its regulations as regards these tests. Whereas formerly the tests were neither specifically permitted or forbidden, now they are specifically forbidden, except where the agency giving the test can convince the Civil Service Commission that there is sound medical reason to do so and that the particular test being employed is a relevant test, and has been proven by experience to be—

Mr. GALLAGHER. And it will be taken in a clinical situation, between doctor-patient, and will remain there, and not in an administrator's safe or deputy administrator's safe.

Mr. LUCE. Well, the answers are destroyed in our program, we get only the evaluation, Mr. Chairman. Of course, to the extent we continue using this kind of test, we will do so only in compliance with the regulations and subject to the restrictions of the Civil Service Commission.

That is a summary of my statement. Now I am supposed to be across the street at the Capitol in about 3 minutes. I would be most happy to come back this afternoon for questions.

Mr. GALLAGHER. All right. Could you return at 2 o'clock?

Mr. LUCE. Yes, sir.

Mr. GALLAGHER. Thank you very much.

(The prepared statement follows.)

STATEMENT OF CHARLES F. LUCE, ADMINISTRATOR, BONNEVILLE POWER
ADMINISTRATION, DEPARTMENT OF THE INTERIOR

My name is Charles F. Luce, and I am Administrator of the Bonneville Power Administration. Like the members of your committee, I am a lawyer.

I appreciate the opportunity to appear before this committee to discuss our experience with what is popularly called psychological testing. In part, such testing seeks a professional appraisal of the personality or temperament of the person tested. By far the largest part of psychological tests, however, seeks to appraise achievements, interest, and aptitudes; for example, verbal comprehension, numerical reasoning, clerical speed and accuracy, space visualization, symbolic reasoning, fields of interest, etc.

I know this committee's concern that any testing program not constitute an unwarranted invasion of employees' right of privacy. I assure the committee that we share its concern. Before concluding my statement I will describe the safeguards we have established to prevent any unwarranted intrusion into the privacy of our employees.

The Bonneville Power Administration is a Federal agency whose official headquarters, by law, are required to be in the Pacific Northwest where all of its properties and operations are located.

It was established within the Department of the Interior by the Bonneville Project Act (50 Stat. 731) in 1937, to market power at wholesale from Bonneville Dam. Subsequent orders by Secretaries of the Interior extended BPA's marketing responsibility to include power from all Federal dams in the Columbia River Basin—21 existing and 6 under construction.

BPA today is one of the largest electric utility operations in the United States, with 6.7 million kilowatts of installed peaking capacity and an additional 2.66 million kilowatts under construction.

It has nearly 10,000 miles of high and extra high voltage transmission lines which, with associated generating projects, represents a plant investment of more than \$2 billion. Its gross annual income is about \$90 million, and soon will exceed \$100 million.

Much of the economy of the Pacific Northwest depends on BPA's efficient and dependable operation; it supplies about 50 percent of all the electricity used in that great region.

Presently, BPA has about 2,700 employees, of whom 60-70 percent belong to unions. Since 1945, its hourly employees have been organized in craft unions that bargain collectively through the Columbia Power Trades Council.

It is vital that BPA have the best qualified personnel available, and the right man in the right job. BPA's top officials must be able to deal effectively with executives of the many private companies and public agencies with which it does business. An error in judgment by a single BPA substation operator can result in loss of life, damage and destruction of valuable property, or interruption of electric service to a major industry or geographic area.

In the case of aluminum plants, which constitute about one-third of our total loads, a service outage of even short duration causes potlines to "freeze" and results in damage which takes weeks to repair. Interruption of service to a city can be a minor disaster; traffic signals and elevators and home appliances stop working, causing confusion, fright, and economic hardship to citizens. Transmission system damage as high as \$500,000 has resulted from a single operating error.

From a management standpoint, BPA is therefore not an ordinary Government agency. Its management problems, and methods of solving them, are much more akin to those of large privately and publicly owned electric utilities. We found that many utilities, investor owned and public, have used, and are using, psychological tests along with other types of tests as aids in selecting employees.

As a matter of fact, I first learned of psychological testing in conversations with executives of privately owned utilities, and with others who had experience with it in private industry. Among such utilities are Duquesne Light & Power, Connecticut Valley Electric Exchange, Ontario (Canada) Hydroelectric, Chelan County (Wash.) Public Utility District, Northern Indiana Public Service Co., Philadelphia Electric, and Washington Public Power Supply System. Attached

is a recent article from *Electrical World* (Mar. 22, 1965) which discusses use of psychological testing by the electric utility industry.

The authority for BPA to use tests is contained in the Federal Personnel Manual, chapter 335, subchapter 3, sections 3-5B and 3-6; and chapter 337, subchapter 1-4 and subchapter 3-3 A and B. Excerpts from these references are also attached. Within the past few days, these regulations have been amended. We will, of course, comply with the new regulations.

After BPA concluded, for reasons I will discuss shortly, that psychological testing would be a valuable adjunct to the testing provided by the Civil Service Commission, we employed two professional consulting firms—Aptitude Testing for Industry of Los Angeles, and Psychological Service of Pittsburgh.

Both organizations are highly reputable, as attested by the list of their clients, including Aluminum Co. of America, Jones & Laughlin Steel Corp., Mellon National Bank & Trust Co., Westinghouse Electric Corp., Western Hydraulics, Ltd. (Borg-Warner subsidiary) and the Garrett Corp.

BPA has employed these independent consultants primarily to evaluate present employees who are candidates for certain vacant positions or for special training opportunities. Positions for which we have asked the consultants to conduct tests include trainee power dispatcher, senior power dispatcher, head-system operations section, substation operations superintendent, chief substation operator, and certain key managerial positions.

For entry-type craft applicants and prospective management trainees, BPA uses standard tests that we ourselves administer, such as the Kuder preference record-vocational, manual dexterity tests, and the Civil Service Commission's general aptitude test.

For each position in the psychological testing program, BPA provides a job definition and qualifications statement. The consultant selected to conduct the testing for the position then determines the appropriate tests to make up the "test battery," including achievement, interest, aptitude, and personality tests. The tests which are being used are limited in distribution by the publisher and are under the control of the contractors.

Thus far, BPA has spent a total of about \$15,000 with the two firms testing for a total of 29 vacant positions. Aptitude Testing for Industry has tested 58 employees at a cost of \$150 each. Psychological Service of Pittsburgh has tested 47 employees on a basis of \$25 per hour for professional time, \$10 for technical service, and \$6 for clerical service, if any is required.

The importance of psychological testing, we believe, should not be over-emphasized. The appraisal based on such testing is not the primary factor in management decisions as to promotion or transfer. It is one of many elements considered by management. Others are confidential appraisals from supervisors and fellow employees, educational background, experience, seniority, past performance, and interviews.

A combination of three factors led Bonneville to try psychological testing as an aid in selecting key managerial and operational employees. First, we are constantly looking for ways to improve our efficiency. Government agencies are sometimes criticized for alleged unwillingness to try new ideas, to streamline their organizations, to give better service to the public at minimum cost.

The management of any bureaucracy, public or private, must constantly fight a tendency to preserve the status quo, to do things today in the same way as yesterday without asking whether there may be a better way.

There's an old joke in bureaucratic circles that if you never do anything, you won't be accused of making a mistake. At Bonneville we reject such a philosophy. We are ready to try new ideas that seem to have merit. If we make mistakes, we regard them as the price of progress.

A second, and more specific, circumstance that led us to explore better ways of testing for certain positions was that we discovered from an attrition study conducted in 1962, that some 300 employees would be eligible for retirement or retired by the end of 1967.

Over 50 of these were in positions of leadership at the middle management level and above. Further study indicated that well qualified replacements for the 50 officials were not clearly identifiable in the BPA staff.

The third circumstance was that during the very same period many key employees would be retiring, the Bonneville program would be greatly expanding. In the 4 years that I have been Administrator, our construction program has increased from less than \$20 million to more than \$100 million annually. Incidentally, we have only increased the number of employees during this period by about 340, or less than 15 percent.

With this background we chose the two reputable and well qualified consulting firms mentioned earlier. We then tested a group of 10 top BPA employees either for the positions they were then occupying, or for other top management positions. This trial run showed that, to a remarkable degree, the appraisals resulting from the tests corresponded with our knowledge of the abilities of the employees in their jobs.

Based upon these preliminary results, we entered into a limited test program. The consultants, incidentally, cautioned that the appraisals derived from the testing program were not 100-percent reliable. They advised that we not make personnel selections solely on the basis of these tests. We have followed their advice.

We began to use the tests in July of 1963, and have continued to use them to date. In February of this year, however, we did not renew the contract of one of the testing services, Aptitude Testing for Industry. By then we were satisfied that one firm could better serve our needs than two.

When we instituted the testing program, we specifically instructed our staff that the results were to be cautiously used. In a memorandum to division directors and area managers, the following criteria were established:

"Appraisal and development of employees for key positions.

"Expanding programs and the increased number of employees eligible for retirement point up the need for a program to select and develop employees for key positions. Greater use will be made of various appraisal techniques in identifying employees with potential for filling these positions.

"The Administration and its employees will mutually benefit from this program as maximum use will be made of each employee's skills and abilities and maximum opportunity will be provided each employee in developing his talents. Areas of weakness that need to be strengthened, such as lack of certain knowledge, can be pointed out to the employee. Outside study, detail to other positions, and similar training can be provided which will offer greater opportunity for employee advancement. Also, strengths of employees, which had not been previously recognized, will be identified.

"Appraisal techniques which will be used include analyses of experience and training, performance appraisals, interviews, and a test battery designed to measure aptitude, interest, and achievement. All of these sources will be used in obtaining more knowledge about the capabilities of employees. This information will assist the employees in choosing career goals, will identify the kinds of training and experience needed, and will permit us to do a better job of matching the abilities of employees with career opportunities in the Bonneville Power Administration.

"Initially, the program will be limited to developing replacement potential and selecting employees for key positions, expected to become vacant through retirement during the next few years. Results derived by use of these appraisal techniques will be discussed with employees. The information will continue to be confidential and will be available only to authorized personnel and employees involved.

"All of these methods of appraisal are now used. We are, however, endeavoring to expand and improve them. For this reason professional consulting firms will assist in developing the program. Employee groups will be consulted before any final program is adopted.

"In order that there be full awareness on the part of employees or supervisors, division directors and area managers are requested to review the content of this memorandum with them at staff meetings, or in some other appropriate manner.

"(Signed) CHARLES W. KINNEY,
"Deputy Administrator."

Next, I wish to advise the committee of the steps we have taken to guarantee the privacy, and individual dignity, that our employees are entitled to have respected:

1. Our decision to use independent consultants was based, in part, upon our belief there would be no chance of test answers falling into unauthorized hands. No one in Government, except the person taking the test, ever sees the test answers. If we had retained a staff psychologist to administer the tests and appraise the results, it would have been harder to guarantee this privacy.

2. The consultant furnishes us only with an appraisal of the employee based on the results of the tests. It is based upon the test and does not show answers to specific questions. It is seen only by the BPA staff members with authority to select the man or woman to fill the job, and, in a few cases, by the immediate

supervisor of the candidate for promotion. The appraisal is kept under lock in the office of the Deputy Administrator.

3. We do not test on a mass-production basis. Of 263 positions filled since we started this particular program, we have tested for only 29 positions. Of 125 categories of positions in our entire organization, we have tested in only 9 categories that we regard as critical to the successful operation of BPA. The consultant "tailor makes" the tests for each position, and interviews the applicants both before and after the examination. This costs more money, but it assures that each of our employees is treated as an individual and that, whether or not he is selected for the job he is competing for, he gets the benefit of friendly and helpful advice from the consultant as to areas in which he can improve himself.

4. We have advised our selecting officers that the appraisal should be considered along with all other pertinent information. It is not to be used as the sole selection factor.

With these safeguards, we believe it cannot fairly be said that our testing program infringes upon our employees' right of privacy in an unjustified way.

No one has a vested right to Federal employment, nor for that matter, to employment with a private firm. When a man or woman seeks new employment (or, as in our testing program, a promotion), he necessarily consents to divulging certain information which the employer otherwise would have no right to ask.

For example, an applicant for Federal employment must take a physical examination. For some individuals, this can be very embarrassing. Such an applicant, further, must consent to be fingerprinted; he must reveal whether he has received treatment for a mental disorder; he must divulge past arrests and convictions; he must tell whether he ever belonged to a subversive organization. He will be investigated by the FBI or Civil Service Commission. If he is the head of an agency, he may be required to disclose his property holdings and debts, as well as his wife's; and he may be required to dispose of certain properties involving a possible conflict of interest.

The Government, as a government, could not thus invade an ordinary citizen's privacy and individual liberty. To do so would be the grossest violation of constitutional rights. But the Government, as an employer, has not only the right but the duty to obtain this information, and thereby assure that Federal employees will be competent and trustworthy, as well as mentally and physically qualified to perform on the job.

The real question, then, is not whether our testing invades privacy. Any test, even a physical examination, does that. The question is whether the tests, as we administer them, produce relevant information that enables us to make more intelligent decisions in filling certain key jobs. We sincerely believe that they do enable us to make fairer and wiser decisions.

We believe, too, that Bonneville employees also benefit from psychological testing. We reduce the chance of putting a man or woman in a position where he or she would be unqualified and unhappy. We point out possible areas of strength and weakness so that the employees can better improve their skills and obtain advancement.

In essence, the objectives of our psychological testing program are to assist in identifying talents of employees, to place them in jobs where their best talents will be utilized, and to avoid placing them in jobs which require talents they do not possess. Psychological testing thus helps to minimize the "square peg in round hole" situations that probably exist in every large organization. A brilliant engineer is not necessarily a good executive. An expert accountant may not be able to fill a job that requires dealings with the public. An outstanding electrician may not have the temperament to be supervisor. A man or woman in the wrong job is neither happy nor efficient. He may develop anxieties and tensions that adversely affect his health, even shorten his life. Employees who work under his direction may also feel frustrated.

The relevancy of a test cannot, we believe, be determined by selecting individual questions from the test and considering them separate and apart from the rest of the test. We have chosen competent and reputable consultants to do the testing. We have sought, and received, assurances from them that they ask only questions which in their professional opinion are relevant to their making an intelligent appraisal of the applicant's qualifications for the position involved. We have not attempted to overrule their judgment, any more than a patient who has selected a good doctor, or a client who has retained a competent lawyer, attempts to interfere with their professional judgment.

We have considered, also, whether, despite the prerogative of an employer to obtain confidential information from his employees, there is something morally

wrong in testing to appraise an individual's mental and emotional qualifications to fill an important job. We are convinced that, as we administer such tests, they are perfectly proper and moral.

For many years I was a vestryman, and for several years senior warden of an Episcopal parish. The canons of our church required both physical and mental examination of candidates for the clergy. Other churches, I understand, test the mental qualifications of all persons entering the mission field. Surely, if there were a moral question involved in psychiatric or psychological testing, our churches would not require it for any positions.

One reason that some denominations have employed testing is that clergymen and missionaries must have certain emotional and mental qualities to survive nervous strains inherent in their work. The churches have not abjured the teachings of modern psychology; some, at least, have attempted to use this teaching to make more intelligent selections of men and women to carry on their work.

Finally, let me say that I do not think the Bonneville Power Administration would collapse if we discontinued our present testing program. But I think it would be a step backward, and a disservice to the cause of good public administration, if we were compelled to abandon the program because of misunderstanding, or because of the mistakes of others who have used testing programs carelessly or thoughtlessly. We are proud of the forward-looking personnel policies of Bonneville Power Administration. We are proud, too, of Bonneville employees—as able and dedicated a team as ever planned, built, and operated a great electrical enterprise. We will continue to do our best to stay in the vanguard of efficient, considerate, and conscientious public administration.

(Attachments to statement follows:)

ATTACHMENT NO. 1

[Electrical World, Mar. 22, 1965]

MANAGEMENT NEWSLETTER

Psychological testing has woven its way into the fabric of American industry. What's more, it has shifted its sights from selection of first level workers to higher level management. Why the psych test? One management association says simply: "To keep bad apples out of the barrel." Another source says it's because companies are more concerned with waste elimination and sustaining creativity. In addition, they are taking on larger commitments due to fringe benefits and payments for unemployment compensation payments. Another reason is the attention psychology has been getting in industrial management graduate schools. How do people feel about psych tests? Testing is in a curious position. It's held with too much contempt, or viewed with too much monistic reverence. The latter group considers testing a panacea for hiring, firing, promotion, transfer, and virtually every other personnel problem in industry. There is also a third group, which says the psych test can be of great help to management. But this group's rationale seems faint beneath all the shouting. It maintains that, like everything else, the psych test is innocent in itself. It's only when the idea of the "person" is lost that these tests become corrosive. Such a thing can easily happen, since the values of the testers and testmakers, who create a market for all this, are imbedded deeply into the validity of the tests. How should they be used? What's their value? That's the subject of this newsletter.

WHAT PSYCH TESTS MEAN TO MANAGEMENT

"I've been with the company for 15 years. I've been promoted three times and received a number of raises. On top of this I've worked hard and I think I've done a darn good job. You know me, you know my family, and you know what I can do. Why, all of a sudden, do I have to take one of those psychological tests? What's happened to your good judgment?"

So, another manager, in line for an executive position, readies himself for what has been dubbed "P" Day—probably the most critical time in the manager's corporate life—the day of the psychic probe.

Perhaps this manager is convinced his superiors have lost confidence in their decisionmaking abilities and have collectively sold out to scientism, which, among other less-than-brilliant achievements, has eroded empathy and many an

intuitive grasp on things. Feeling helpless he wonders: "Will the results of this psychological test haunt me for the rest of my working life?"

How many times daily the curtain has lifted on this quiet, and sometimes not so quiet, office drama is anyone's guesstimate, since there are no U.S. statistics on it—yet. What is known, however, is that the hotly debated use of psychological testing methods, from aptitude to personality tests, is "replacing baseball as the great American pastime," quips one humorist.

Originally, psychological tests were used by managers as a tool for weeding out unqualified beginners. They are, of course, still greatly used for this. Now, however, especially since the addition of personality tests, management painfully uses them on experienced managers, which is, "hoist by its own philosophy."

Apparently all this testing is no fad. Right now, interest is being shown in efforts to determine, biologically, how many useful years an applicant may have ahead of him. So, the scope of testing is due to broaden. Wryly comments William H. Whyte: "A dynamic would appear to be at work. The more people who are tested the more test results there are to correlate, and the more correlations, the surer are many testers of predicting success or failure, and thus the more reason there is for organizations to test more and more people." To what extent is psychological testing used in the United States today?

Most of the Nation's major corporations, as well as hundreds of smaller ones, will employ only applicants who have taken psychological tests. "Virtually every aspiring manager under the age of 30," comments one report, "has already gone through at least one testing of his personality at some stage during the past decade." In addition, many older managers and officers are now subject to testing when they're shooting for the high position.

The testing of individuals for beginning jobs is generally accepted today, says the National Industrial Conference Board. The evaluation of managers and officers is less generally accepted. There are several reasons for this, comments the board. "The evaluation of executives is a fairly recent development compared with employment testing, which is well over a generation old. Selecting young workers for clerical or production jobs is relatively easy. Appraising older men for one-of-a-kind positions is more difficult. Many norms are available for starting jobs," says NICB, "but there are few useful norms for top positions."

This is one reason why many firms have turned to using the outside psychological consultant. (Some 16 firms have even engaged the services of psychiatrists.) The psychological consultant usually charges \$150 to \$200 per "executive evaluation." This involves a full day of the individual's time. It means psychological testing (measures of reasoning, interests, and personality), an interview with the staff psychologist, and a discussion of the findings with the individual.

Several reasons may be cited for the increasing use of psychological consultants, says NICB. An organization that has made a number of poor appointments, or one that has suffered high executive turnover may feel the need for outside help. Also, if the man under consideration is already with the company, management may say: "It's true we have known and worked with this man for 15 years, but this very fact suggests we are too close to him to see him fairly and objectively."

"Furthermore, we have learned that a man who is effective at level B is not necessarily effective when moved in level A. Thus, we want a third-party view of our man (enter consultant) and a report on him in terms of the level A position for which we are considering him." An executive evaluation is also supposed to assess the individual's strong, as well as weak points, and serve as a guide to his subsequent development.

Testing is also used extensively in the electric utility industry (see table below). A recent study completed by John C. Arnell, director of personnel and industrial relations, Consolidated Edison Co. of New York, uncovered the following data: Of 63 large and small electric companies in all sections of the country, 90 percent utilize tests during preemployment; 65 percent find them useful during selection for promotion; 54 percent use tests during selections for transfers.

How 63 electric utilities use testing

Preemployment:	Utilities	Promotion:	Utilities
Achievement.....	38	Achievement.....	26
Aptitude.....	51	Aptitude.....	27
Interest.....	21	Interest.....	14
Personality.....	28	Personality.....	20
Combination.....	15	Combination.....	11
Intelligence.....	6	Intelligence.....	5
No testing program.....	6	No testing program.....	22

Aptitude, achievement, and personality tests, in that order, are the most popular, not only in the area of preemployment, but also for promotion and transfer. These are followed by interest and "combination" tests. Intelligence tests are utilized in all three selection areas but not to any great degree. What jobs are involved in the testing?

"For hiring-in jobs, tests are utilized for all except, in a few cases, they are given only for clerical positions such as typist and stenographer. For transfers and promotions, some utilities stated that all jobs are involved, while others restrict tests to skilled or professional occupations such as engineers, programmers, and system operators." Who administers the tests?

This is in the hands of the personnel department in 63 percent of the areas. Sixteen companies (29 percent) indicated joint responsibility between personnel and the individual departments. Labor organizations are more apt to have specialists in their personnel departments to administer the testing programs. In this same light, two companies both relatively small as to the number of employees, says Arnell, hire the services of a consultant in one case to administer tests by himself, in the other to administer them in conjunction with personnel. What weight is given to these psychological tests?

Tests are employed as a "supplement" to other selection factors, say 68 percent of the utilities. However, 15 companies (27 percent) replied that tests are predominant for some jobs but are used as a supplement to others. Remarks Arnell: "Although those who reported using tests as a supplement are in the majority, quite a few * * * report that test scores are the major factor in the selection process. They indicate generally that failure to receive a passing grade on pre-employment tests automatically disqualifies the applicant * * *."

"I ask this group: What prompted you to adopt this policy? Was it an easy way out? Could you prove that it's related to the requirements either of the job or your employee training program? If you can't prove this, haven't you lulled yourself into a false sense of security? To be realistic about testing, shouldn't you know why and how you are using tests and what they prove?"

This is one of the reasons why testing has been a controversial subject from the day they were first introduced into business—some companies use them with too much reverence, willing to believe too much about what tests can do for them. Individuals and companies have used tests improperly and have accepted test findings uncritically. Persons with inadequate training have been given responsibility for organizing testing programs. Test scores have been taken as final answers in making personnel decisions.

Other reasons for the fight over psychological testing are the violent feelings that are aroused by the criticism that testing is an invasion of privacy and therefore an unfair—if not immoral—practice, and the disparity of opinions within the psychological profession itself on what constitutes ethical testing and how it should be employed. How should testing be employed?

Psychological testing is not a scientific hiring method, says King Whitney, president, the Personnel Laboratory, Inc., Stamford, Conn. "The idea that test scores of themselves should determine who should be hired and who shouldn't is a rank absurdity. A man succeeds or fails on a job because of a host of factors and variables—only a certain number of which are revealed or measured by tests.

"So, I do not advise anyone to begin making use of psychological testing as an aid to selection because he thinks that tests will make decisions for him. He is doomed to disappointment, since he will sooner or later find that in a number of instances, tests will only raise more questions about a person, muddying the waters and making decisionmaking even more difficult.

"There is only one reason for using any form of psychological testing in your hiring procedure and that is because you want more insight into the intellectual and/or emotional makeup of an individual than you are likely to derive from your interviewing or reference checking alone. In other words, you don't want to rely entirely on surface impressions in making a decision to hire or not to hire, to promote or not to promote." What about weight?

The weight given test results in making decisions to hire or promote people will vary considerably, says Whitney. "Just like the weight you give to their previous experience, education, or personal mannerisms. One good reason for avoiding assigning a rigid weight to test results is the disparity that sometimes occurs between an analysis of a person on the basis of his test performance and the evaluation made through interviews and references."

What about the "invasion of privacy" howl that is being sent up over psychological testing? Management, the critics say, has no right to dig into and expose one's psyche. Aside from the fact that the howl may be sent up for the

wrong reason, "testing does represent something of an invasion of privacy," says Whitney. "The real question is: Does management have the right to invade privacy? I believe management does have this right and should have as long as prospective and present employees represent an investment. But I also believe management's right in this regard should be restricted to obtaining information which has a bearing on how a man is likely to perform a job * * *."

Removing the "cure-all" obsession from psychological testing will not be an easy task. Its roots are buried deep in scientism. However, if it is not accomplished the practice of uncontrolled inquisitions into the psyche could spill over into U.S. life in general. Are the profits worth it?

CONSIDERING A TESTING PROGRAM? EIGHT POINTS TO KEEP IN MIND

1. Tests aren't designed to give a complete picture of a person—only those areas which are difficult or impossible to discern from other methods, such as interviews and reference checks. So, don't look on tests as panacea.

2. Tests can measure some things better than others. For example, intelligence can be "measured" better than motivation.

3. Tests a company uses itself should be obtained only from reputable test publishers. Tailormade tests are preferable to canned ones. If in doubt, contact: American Psychological Association.

4. Tests can be administered by outside testing service.¹ However, a company should make very sure the outside service understands demands of the company in general, and jobs for which they will be testing candidates in particular.

5. Tests must be given under proper conditions. This means surroundings should be quiet, well lighted and well ventilated. Time limits should be rigorously observed.

6. Test results for each person should be known to only a few top people in the company. The results should also be kept under lock and key. The information could be misused.

7. Tests are not infallible. If there's a disparity between test results and conclusions drawn from other evaluative techniques, don't assume tests are right. Dig deeper. More interviews, etc.

8. Test results should not be discussed with the person who took the test, unless there's certainty that the interviewer knows exactly how to handle it. If in doubt, get the aid of a qualified counselor.

ATTACHMENT NO. 2

FEDERAL PERSONNEL MANUAL

CHAPTER 335, SUBCHAPTER 3, SECTION 3-5b

Written test requirements: Promotion plans developed by agencies to cover position for which standards include a written test must include the written test requirement with the rating standards prescribed by the Commission. Agencies may also require written tests for promotion to other positions as a means of improving their promotion plans, or may add written tests in addition to those required by the Commission.

CHAPTER 335, SUBCHAPTER 3, SECTION 3-4

Ranking promotion candidates

The merit promotion program requires selection from among the best qualified candidates rather than selection of any qualified candidate. This requirement implies a ranking process more selective than the mere distinction between those eligible and those ineligible on the basis of the standards used. The term "ranking" may mean placing candidates in 1, 2, 3, order; or it may mean grouping them into two categories, qualified and well qualified; or into three categories, qualified, well qualified, and best qualified; or any other number of categories, depending on the number of candidates. Strict ranking order is not required within a category. Methods of ranking, referral, and selection should be designed

¹ Check reputation of these consultants with business and professional communities, with American Psychological Association in Washington, D.C.

to make valid discriminations among candidates so as to bring a relatively small grouping of the best qualified candidates to the attention of the selecting official. Where the evaluation and ranking techniques bring a large number of candidates into the top group from which choice must be made, the situation should be reviewed to see if it is practicable to devise ranking methods that will make finer distinctions and relieve some of the selecting officer's burden. Conversely, ranking or grouping is of dubious value when there are only a few candidates (four or five, for example) since even the best selection techniques cannot make distinctions so exact that some final choice by the appointing officer is not desirable. Under the latter circumstances the evaluator can help the selecting officer by pointing out the strengths and weaknesses of each candidate.

CHAPTER 337, SUBCHAPTER 1-4

Examining methods

The methods used to evaluate qualifications are designed to measure the knowledge, skills, and abilities considered essential to successful performance on the job. Written tests, performance tests, evaluation of experience, education and training, vouchers, interviews, qualification questionnaires and investigations and interest questionnaires may be used separately or in combination to determine eligibility for particular jobs. The examining methods for particular positions are reflected in the standards.

CHAPTER 337, SUBCHAPTER 3-3 A AND B

Use of commercial testing material

a. Optional use: An agency is not limited to the use of Commission tests in intraagency examinations and may obtain testing materials by other means, including buying them from commercial firms if this is permitted by the agency's budget and regulations. However, where the Commission specifies eligibility on a written test for qualification purposes, that test must be used.

b. Selection of tests: (1) Commercial tests must, however, be used with extreme caution. * * *; (2) Unless several forms or series of a commercial test are available, there may be an additional question as to fairness since answer keys as well as tests are for sale. * * *; (3) Dependable selection of tests for a position requires first a job analysis which reveals the factors most needed for success on a job. Second, tests must be selected which validly and reliably test these factors. Third, the test or battery of tests must be so scored that proper weight is given to the various parts and thus to the factors being tested. * * *

Mr. GALLAGHER. The subcommittee stands adjourned until 2 o'clock.

(Whereupon, at 12:20 p.m., the subcommittee was recessed, to reconvene at 2 p.m., this same day.)

AFTERNOON SESSION

Mr. GALLAGHER. The subcommittee will be in order.

Mr. Luce, can you pick up where you left off?

Mr. LUCE. Mr. Chairman, I had completed a verbal summary of my written statement, and I am prepared to answer the committee's questions.

Mr. GALLAGHER. Before we proceed, I would like Mr. Cornish to read into the record some of the questions from the tests which you give.

Mr. LUCE. Excuse me, Mr. Chairman, could he identify the test from which the questions are taken?

Mr. CORNISH. Surely. I understand, Mr. Luce, you have a file of the questions?

Mr. LUCE. No, sir; you have my file of questions. Oh excuse me, we have it back; yes.

Mr. HORTON. Mr. Chairman, has the witness identified what tests they give or what tests are given by their agency?

Mr. LUCE. Yes; Mr. Congressman, we gave a complete list of the test and the text of the tests themselves.

Mr. HORTON. I mean for the record.

Mr. LUCE. Oh, no; I have not. I could offer the listing for the record, or handle it however the committee wishes.

Mr. GALLAGHER. Fine. We would like to make this part of the record.

(The following correspondence was subsequently submitted to the subcommittee:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 28, 1965.

HON. CORNELIUS E. GALLAGHER,
Committee on Government Operations,
House of Representatives, Washington, D.C.

DEAR MR. GALLAGHER: In your letter of May 12, 1965, you inquired concerning the use of written psychological questionnaires or personality tests on Government employees and applicants.

One of the bureaus of this Department, the Bonneville Power Administration, has used psychological-personality tests. This bureau has had contracts with 2 independent consulting firms to evaluate a total of 105 employees for 29 positions. It is in the process of this employee evaluation that the tests were used.

The Bonneville Power Administration has spent approximately \$15,000 with Psychological Service of Pittsburgh and Psychological Services, Inc. ("Aptitude Testing for Industry"), of Los Angeles. The latter contract expired in February of this year. The tests used are limited in distribution by the publishers and are under the control of the two contractors. Hence, we are unable to furnish blank copies, as requested. The addresses of the two firms mentioned are:

Psychological Service of Pittsburgh, Hardy and Hayes Boulevard, Pittsburgh, Pa.

Psychological Services, Inc. ("Aptitude Testing for Industry"), 1800 Wilshire, Los Angeles, Calif.

There is enclosed a statement prepared by the Administrator, Bonneville Power Administration, regarding the use of these tests.

Sincerely yours,

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
BONNEVILLE POWER ADMINISTRATION,
Portland, Oreg., May 18, 1965.

Memorandum.

To: Secretary of the Interior.

From: Bonneville Power Administrator.

Subject: BPA Personnel testing program.

We are pleased to provide you with information regarding the use of psychological tests by the Bonneville Power Administration. In order to place this in proper context we would like to first describe BPA, then discuss the agency's testing programs.

As you know, the Bonneville Power Administration was established by the Bonneville Project Act (50 Stat. 731) in 1937, to market power at wholesale from Bonneville Dam. Subsequent orders by Secretaries of the Interior extended BPA's marketing responsibility to include power from all Federal dams in the Columbia River Basin—21 existing and 6 under construction.

BPA today is one of the largest electric utility operations in the United States, with 6.7 million kilowatts of installed peaking capacity and an additional 2.66 million kilowatts under construction. It has nearly 10,000 miles of high- and extra-high-voltage transmission lines which, with associated generating projects, represents a plant investment of more than \$2 billion. Its program and its plant investment will more than double in the next 10 years. It markets roughly half

the electric power sold in the Columbia basin, an area about three times the size of TVA. Much of the economy of the Pacific Northwest depends on BPA's efficient and dependable operation.

Presently BPA has about 2,700 employees. For many years its hourly employees have been organized in craft unions that bargain collectively through the Columbia Power Trades Council.

It is vital that BPA have the best qualified personnel available, and the right man in the right job. BPA's top officials must be able to deal effectively and fairly with the executives of many private companies with which it does business. An error in judgment by a single BPA substation operator can result in loss of life or interruption of electric service to a major industry or geographic area.

In the case of an aluminum plant, a service outage of even short duration causes pot lines to "freeze" and results in damage which takes weeks to repair. Interruption of service to a city is a minor disaster; traffic signals and elevators and home appliances stop working, causing confusion, freight, and economic hardship to citizens—for example, food spoilage in refrigerators and damage to electric motors. Furthermore, transmission system damage as high as \$500,000 has resulted from a single operating error.

From a management standpoint, BPA therefore is unusual. Its management problems, and methods of solving them, are much more akin to those of large public- and investor-owned electric utilities. BPA has found that many utilities, public and investor owned, have used and are using psychological testing along with other types of tests, as aids in selecting key employees. Among utilities utilizing such testing are: Duquesne Light & Power, Connecticut Valley Electric Exchange, Ontario (Canada) Hydroelectric, Chelan County (Wash.) Public Utility District, Northern Indiana Public Service Co., Philadelphia Electric, and Washington Public Power Supply System. Attached is an article from *Electrical World* (Mar. 22, 1965) which discusses use of psychological testing by the electric utility industry.

After BPA concluded that psychological testing would be a valuable adjunct to the testing provided by the Civil Service Commission, we employed two professional consulting firms—Aptitude Testing for Industry, of Los Angeles, and Psychological Service of Pittsburgh. Both organizations are highly reputable, as attested by the list of their clients, including Aluminum Co. of America, Jones & Laughlin Steel Corp, Mellon National Bank & Trust Co., Westinghouse Electric Corp., Western Hydraulics, Ltd. (Borg-Warner subsidiary), and the Garrett Corp.

BPA has employed these independent consultants primarily to evaluate present employees who are being considered for filling vacancies or for special training opportunities. Positions involved include trainee power dispatcher, senior power dispatcher, head—system operations section, substation operations superintendent, chief substation operator, and certain key managerial positions. For entry-type craft applicants and prospective management trainees, BPA uses such tests as the Kuder preference record—vocational, manual dexterity tests, and the Civil Service Commission's general aptitude test.

Thus far, BPA has employed the 2 independent consultants to test a total of 105 employees for 29 positions. BPA has adopted criteria guidelines, copy attached, for the consultant and BPA staff personnel for the administration of tests. For each position in the testing program, BPA provides a job definition and qualifications statement. The consultant selected to conduct the testing for the position then determines the appropriate tests to make up the "test battery," including interest, ability, and personality tests. Aptitude Testing for Industry has told BPA that it has included the following tests in its test battery:

Watson-Glaser Critical Thinking Appraisal.

Allport-Vernon-Lindsey Study of Values.

Multiphasic Personality Inventory.

Guilford-Zimmerman Temperament Survey.

Kuder Preference Record.

Management Aptitude Inventory.

Supervisory Practices Test.

The tests that are being used are limited in distribution by the publisher and are under the control of the contractors.

No person in BPA ever sees the individual answers to test questions. When the tests are completed, they are sealed and sent to the consulting firm, which retains and does not return them. The completed tests are evaluated by qualified psychologists who are members of the American Psychological Association. A private "feedback" interview by a qualified representative of the testing firm

is provided to each employee who participates in the testing. This interview is intended to assist the employee better to know his strengths and weaknesses. BPA is provided with a written appraisal that is directly related to the job requirements. Only a select few officials of Bonneville ever see the appraisal, and it is kept under lock and key.

The importance of psychological testing, BPA believes, should not be over-emphasized. This appraisal is not the primary factor in management decisions as to promotion or transfer. It is only one of several factors considered by management. Others included are confidential appraisals from supervisors and fellow employees, educational background, experience, seniority, past performance, and interviews.

Thus far, BPA has spent a total of about \$15,000 with these two firms for testing. Aptitude Testing for Industry has tested 58 employees at a cost of \$150 each. Psychological Service of Pittsburgh has tested 47 employees on a basis of \$25 per hour for professional time, \$10 for technical service, and \$6 for clerical service, if any is required. The contract with Aptitude Testing for Industry expired February 25, 1965. For the sake of better coordination and direction and greater efficiency in the conduct of the program, BPA has now limited its independent consulting service to Psychological Service of Pittsburgh.

The authority for BPA to use tests is contained in the "Federal Personnel Manual," chapter 335, subchapter 3, sections 3-5B and 3-6; and chapter 337, subchapter 1-4 and subchapter 3-3A and 3-3B. Excerpts from these references are enclosed. In addition, BPA's various promotion plans provide for written or performance tests.

If you desire further information on this matter, please let us know.

CHARLES F. LUCE, *Administrator*.

CRITERIA FOR USE OF PSYCHOLOGICAL EVALUATION IN BPA

I. All psychological evaluation to be performed by well-qualified outside contractors:

A. With experience and good reputation in the field.

B. With responsible psychologist holding membership in the American Psychological Association.

II. Use in evaluation and selection:

A. Voluntary participation. (If persons elect not to participate they will still be considered on the basis of other information available.)

B. To be used for constructive purposes only. (Not to be basis for an adverse action.)

C. To be used when appropriate for advancement, placement, and special assignments.

D. Does not determine technical competence.

E. Is only one part of total evaluation.

III. Interviews:

A. A background interview will be conducted by the test psychologist with the employee prior to preparation of a final report.

B. Each employee tested will receive a feedback interview from the psychologist who evaluated the test results.

C. The feedback interview will include a review of strengths and weaknesses as outlined in the report.

IV. Proper safeguards for handling of test material and evaluations:

A. Test answer sheets will not be reviewed by BPA at any time.

B. Evaluation reports will be maintained by the Deputy Administrator in a locked file.

C. Evaluation reports will only be used for constructive purposes.

V. Continuing evaluation of test validity:

A. BPA and the contractor will review performance of employees tested and compare with the evaluation.

(An article from *Electrical World*, entitled "Management Newsletter," March 22, 1965, appears on p. 182.)

Mr. CORNISH. One of the tests, Mr. Chairman, is the Allport-Vernon-Lindsey Study of Values, which is listed here as the third

edition. And this is a test in which you state your preferences and the degree of preference for a statement in terms of either yes or no. I would like to cite a handful of examples from this particular test, to illustrate some of the questions which might raise an issue of invasion of privacy, or a question that they might be unrelated to the type of job being performed.

No. 2—and this is a yes or no answer—“Taking the Bible as a whole, one should regard it from the point of view of its beautiful mythology and literary style, rather than as a spiritual revelation.”

No. 3, “Which of the following men do you think should be judged as contributing more to the progress of mankind, (a) Aristotle, (b) Abraham Lincoln.”

Now this test also has a part 2, in which the person who answers is asked to state or to designate which statement appeals to him most. And then the statement that appeals to him second best, third best, and least of all. An example of this is, No. 5, “If you lived in a small town, and had more than enough income for your needs, would you prefer to (a) apply it productively to assist commercial and industrial development; (b) help to advance the activities of local religious groups; (c) give it for the development of scientific research in your locality; (d) give it to the family welfare society.”

The next test which has been identified as one of the ones which the Bonneville Power Administration gives to certain employees is the Edwards Personal Preference Schedule. This is a test in which you designate the answers by stating in terms of whether you may or may not like it. The proper way of answering would be designating that you like something best or that you dislike it least. And each question has two pairs of statements.

No. 19, “(a) I like to read books and plays in which sex plays a major part. (b) I like to be the center of attention in a group.”

No. 142, “(a) I like to predict how my friends will act in various situations. (b) I like to participate in discussions about sex and sexual activities.”

No. 159, “(a) I like to become sexually excited. (b) I like to accept the leadership of people I admire.”

No. 209, “(a) I like to kiss attractive persons of the opposite sex. (b) I like to experiment and to try new things.”

Mr. Chairman, in order to save time, I can put in the record some representative examples of the questions in the remaining tests, if that is agreeable.

Mr. GALLAGHER. Without objection the examples will be made a part of the record.

(The examples appear on pp. 218 and 345.)

Mr. GALLAGHER. Now, Mr. Luce, do you identify these tests as those tests that are part of your evaluation?

Mr. LUCE. I think they are. Congressman Horton has my list of them and I think the counsel for the committee has the original list, is that correct?

Mr. CORNISH. That is correct.

Mr. LUCE. It would help me if I had this list. Thank you.

Mr. CORNISH. I might say, Mr. Chairman, that the Minnesota Multiphasic Personality Inventory which we have discussed throughout these hearings is also one of the tests listed.

Mr. LUCE. That is correct. It is listed as being used only in exceptional cases.

Mr. GALLAGHER. But these tests that have been identified are the tests that we are now discussing in connection with the Bonneville Power Administration?

Mr. LUCE. They are two of the tests, Mr. Chairman, or excerpts from two of the tests.

Mr. GALLAGHER. Yes.

Mr. Romney?

Mr. ROMNEY. Mr. Luce, in your testimony this morning I recall that you stated something like this, "If we cease making these tests, the Bonneville Power Administration would, of course, not collapse." The Civil Service Commission has issued a policy statement clearly directed toward personality evaluation type tests. In view of that recent statement by the Commission, do you feel that it would be consistent with that policy to continue to administer or have a consultant administer tests of the type which we have just given examples from the four tests which I think have been mentioned either directly or indirectly by Mr. Cornish in citing specific examples of questions?

Mr. LUCE. According to my notes, Mr. Cornish mentioned two tests, is that correct?

Mr. CORNISH. No; I mentioned three tests, including the Minneapolis Multiphasic Personality Inventory. And the fourth one which I did not give examples from, in order to save time, was the Guilford Zimmerman Temperament Survey.

Mr. LUCE. What was the first one? That was not a personality test, as I recall.

Mr. CORNISH. That was a test which is described as a study of values.

Mr. LUCE. What is the title of it?

Mr. CORNISH. The Allport-Vernon-Lindsey Study of Values.

Mr. LUCE. Oh, it is just listed study of values here. Yes.

Well, to answer your question, Mr. Romney, I think as we administer these tests, and with the safeguards of privacy we have thrown around them and in the limited areas that we test, with the approval of the Civil Service Commission, under the criteria that they have enunciated, that this testing would still be proper.

Mr. ROMNEY. Have you taken steps to obtain the approval of the Commission with respect to these?

Mr. LUCE. No; but we will do that. The Commission's regulations are new, and were only made known to us, I think, about 3 days ago. We will, in due course, present the testing program that we have to the Civil Service Commission, because they have to be the final arbiters, as to whether it is consistent with criteria they have established.

Mr. ROMNEY. Let me quote from their policy statement:

The Commission will consider proposals for the use of a particular personality test only when it has been shown by systematic research to have a direct value in making personnel decisions.

Are you prepared to present evidence of the systematic research which would validate these tests in your submission to the Commission?

Mr. LUCE. Yes; we will expect to do that.

Mr. ROMNEY. Do you have such evidence now?

Mr. LUCE. I am not a psychologist; I am a lawyer, but the tests that we have been using, as I understand it, are tests that have been developed through experience, or through research, if you want to call it that. The reason that we concentrated our testing in the Psychological Service in Pittsburgh, was that for 20 years they have been using various tests as they were developed in predicting the suitability of certain key employees in electric companies for jobs for which they are applying. Over this period, they have had the opportunity to take a backward look to see how their predictions, at the time the tests were given, squared with the results that developed when the man was placed in the job. It was on the basis of that experience with these tests that we felt this was an especially qualified firm.

Now in answer to your question of what submission we would make, we will have to request the consulting service to lay before the Civil Service Commission the research in detail that went into the preparation of their questions and into their analysis of the answers. It will then be up to the Civil Service Commission to determine whether it meets the criteria that you have just read.

Mr. GALLAGHER. I think 20 years is not a good argument, as a lawyer. For hundreds of years, people read the entrails of sheep and this has been proven rather unpredictable lately.

Mr. LUCE. I don't think that is a proper comparison, Mr. Chairman. These people aren't reading the entrails of sheep.

Mr. GALLAGHER. Well, they were the forecasters of their day. And on the testimony we have heard yesterday there is serious doubt cast on the reliability of the tests. Would not the entrails of sheep perhaps be more reliable, since the tests are not much better than the element of chance?

Mr. LUCE. We take a practical approach to this. We tested 10 people whose capabilities we knew. The testing indicated that the tests brought out the strengths, the weaknesses, of these people. Now to me that is the proof of the pudding, that is the practical proof.

Mr. ROMNEY. Mr. Luce, the recent civil service policy statement gives as one of the difficulties in the administering of tests of this type, the following' and I quote:

In employment use, particularly, the test becomes a threatening and competitive device, which the applicant, consciously or otherwise is likely to distort in his favor.

You have cited an example of your justification in using these tests that 10 men were selected as guinea pigs to see how the particular personality tests would work out, and these were men who were already employed by the administration, many of them for some time apparently, some about to retire. Is it not true that these men, taking these tests, were not under any stress or competitive pressure when they took the tests?

Mr. LUCE. That is correct. However, we take as great a precaution as we can, Mr. Romney, to assure the people taking the test that they have full freedom of choice in the matter, and urge that they not try to outguess the tests. The testing consultant talks with them in advance and points out that the test is really to help them as much as it is management, because it doesn't do a man any good to get

into a supervisory position, if temperamentally it is going to tear him apart. So in only a very few instances, only one that I can recall, did a man actually try to outguess the test, by giving the answers he thought would best qualify him for the position. It turned out he guessed wrong.

Mr. ROMNEY. Was this one of the guinea pig men?

Mr. LUCE. Well, guinea pig is your term, not mine.

Mr. ROMNEY. I am sorry. I used this as a figure of speech.

Mr. LUCE. I don't think it is fair to our employees to call them that, Mr. Romney.

Mr. GALLAGHER. Regardless of what you call them, Mr. Luce, we have a feeling this was unfair and perhaps if we have to label these people, then the label is one the profession has given to people who have volunteered for these tests.

Mr. LUCE. I see. But this was wholly voluntary, they were honorable, fine employees and they were entirely willing to help us. They are part of the top management of the organization and we are always trying to improve this organization the best we can.

Mr. ROMNEY. But is it not true the psychological attitude of a person taking the test, knowing that a possible change of his assignment or grade is involved, would be different from the attitude of a person taking it merely to show theoretically what the results might be?

Mr. LUCE. Oh, it might be different. But I think our employees are honest, and I don't think they are going to fake answers to questions, whether they are in a competitive situation or not.

Mr. GALLAGHER. If you have a presumption of honesty, should you not also have a presumption of stability, sanity?

Mr. LUCE. I think you are dealing with two different problems.

Mr. GALLAGHER. Are we not dealing with some basic presumptions about our fellow human beings?

Mr. LUCE. Well, a man can have a temperament, I think the chairman would realize, where to be under a stress situation, where he has to make decisions and make them fast, which can affect the lives of other men, would make him uncomfortable. It might even shorten his life.

Mr. GALLAGHER. Yes.

Mr. LUCE. But a man applying for such a job might not himself realize that this promotion he was seeking was going to actually be something that he doesn't want. He is after the promotion because it involves more pay, or because his family may feel that it would be a good thing if he was promoted, and so forth. But it may not be the best thing for him.

Actually, we use these tests as much, as I said in my opening statement, as an employee consulting service, as we do for the benefit of management.

Mr. GALLAGHER. Well, you cite the stress factor as one that must be taken into consideration. We certainly agree. The President of the United States is under stress and strain, the Secretary of State, and there is a presumption on the part of the people in the country that they are stable, and we don't require them to take tests. So the stress factor is not or should not be the sole argument. It should be part of an argument.

Mr. LUCE. It is not the sole argument; it is only part of it. But as Chairman Macy pointed out yesterday, the Civil Service Commis-

sion would regard as proper this kind of testing of a man who was going to be in the tower of an airport directing traffic.

Mr. GALLAGHER. Therefore, he should be properly evaluated.

Mr. LUCE. Right. And that is what we are trying to do.

Mr. GALLAGHER. This special inquiry is concerned not only with the proper evaluation, but we are concerned with whether or not in the evaluation of these people their privacy is being violated and they are not being subjected to humiliation and indignity in having to take a test which throws up all sorts of things which should remain part of their private life.

Mr. ROMNEY. Mr. Luce, your statement—and I quote—is in part:

The importance of psychological testing, we believe, should not be over-emphasized. The appraisal based on such testing is not the primary factor in management decisions as to promotion or transfer. It is one of the many elements considered by management. Others are confidential appraisals from supervisors and fellow employees, educational background, experience, seniority, past performance, and interviews.

Mr. LUCE. That is correct.

Mr. ROMNEY. You are dealing in your cases with personnel already in the employment of the Agency, are you not?

Mr. LUCE. Right. We don't use this testing on initial employment.

Mr. ROMNEY. And most of them have been there for some time, is that not correct?

Mr. LUCE. Yes.

Mr. ROMNEY. So you have been in a position to observe their performance?

Mr. LUCE. Not necessarily in the position they are applying for.

On the white-collar side of the organization, we are largely a professional organization, principally engineers, a number of accountants, some lawyers, some economists.

Now a man might be an excellent and outstanding technical engineer. He might be the best in the organization. And we might know he is the best in the organization. But if he hasn't been in a supervisory role, we wouldn't necessarily know whether he would make a good supervisor or whether he would even be happy in that position.

Now, we might have some hunches about it, we might have guesses about it, but what we are doing with this testing, really, is to seek another aid in the selection. And one of the principal things that this testing does is aid us in the use of these other criteria.

For example, in interviews. Suppose, for example, that the answers to the test questions indicate that the man might not be happy in a supervisory position, this might create some stresses that would be distressing to him. Then, when we interview him, we go into that in particular detail. It is a guide to the interview.

Actually, all that these tests bring out could be done by interviewing alone, if you had the money and the time to have a man sit down and ask all of these questions, or most of these questions. But what the testing does is really to help the interviewer, later on, by giving him some indication of the man's personality, if we are talking about personality tests, or his aptitudes, if we are talking about that, or his interests, if we are talking about interests.

As I pointed out in my statement, about 70 or 80 percent of the testing we are doing is not personality tests; it is in the other areas, aptitude, interests and achievements.

Mr. GALLAGHER. The committee has no objection whatsoever to the aptitude test and the dexterity tests.

Mr. LUCE. I understand that, Mr. Chairman. But these are all called "psychological testing."

Mr. GALLAGHER. It is. But we are concerned with the personality, the temperament-type of thing that gets into these questions of privacy.

Mr. Romney?

Mr. ROMNEY. You do concede that the information could be elicited through interviews in depth, rather than through the testing procedure?

Mr. LUCE. If we had the money to handle this by interviews alone, and could employ the counselors to do this, there is no reason why any written question can't be asked verbally. You are right.

Mr. ROMNEY. Are you familiar, Mr. Luce, with a document which is part of the Civil Service Commission, appendix A to part 2 of the Commission's Organization and Policy Manual? On page 32 of this appendix is a statement which relates specifically to "Guide to Evaluation of Employees for Promotion." This came out in October of 1961, and I will read it:

Certainly personal characteristics are significant to job success. However, the use of personality tests to evaluate these should be approached with great care. Many people know what behaviors or attitudes are approved or expected, and on a test can readily indicate the correct answer, even when in fact their attitudes and behavior are much different.

A more dependable report of their personal characteristics can be obtained through other means, since most people develop characteristic ways of behavior. The manner in which they have adjusted to and handled their jobs and other activities in the past provides an indication of the way in which they probably will behave in the future.

The supervisory appraisal and information obtained from others who have worked with the employee, and properly conducted interviews can be used to obtain information about the personal characteristics of employees as related to job requirements.

Were you aware of this statement by the Commission?

Mr. LUCE. I am, and I feel our program is consistent with it. It says the use of personality tests to evaluate personal characteristics should be approached with great care. And I think the evidence we put before the committee indicates we have approached it with the greatest of care.

Mr. GALLAGHER. Except it is now a violation of the civil service regulations.

Mr. LUCE. Mr. Chairman, it is a violation without the approval of the Civil Service Commission, of the particular test, that is right. Mr. Romney is reading from some previous regulations, is that not correct?

Mr. ROMNEY. This is not a policy document. It is merely a guide, issued by the Commission, to evaluate employees for promotion.

Mr. LUCE. I think it was issued a couple of years ago, wasn't it?

Mr. ROMNEY. In 1961, yes. I read it to stress the importance they place on the past performance of the employee and the importance of personal interviews and information obtained from fellow employees.

Mr. LUCE. We agree with it.

Mr. ROMNEY. You have mentioned earlier that you would regard the relationship of the employees taking this test to the test makers or the givers, as one of a doctor-patient type.

Mr. LUCE. Yes.

Mr. ROMNEY. Can you really have a doctor-patient type relationship? Isn't there something that is basically different between the relationship of an employee and a consultant, for example, and the relationship of an employee and a physician?

Mr. LUCE. I don't think so. When an employee applies for a job with the Federal Government, or with a private employer, he is often required to take a physical as well as a mental examination. And he is in a sense in a competitive position when he goes in for his physical examination.

And certainly, the physical examination invades privacy in the normal sense of the term. I think here we have approached as nearly as you can, without actually having a M.D. administer the tests, a medical or doctor-patient type relationship.

Now, it has been my experience in law practice, before I got on this job, that when an M.D. in the community where I practiced was asked to make a psychological report on someone, he frequently called in a psychologist to give the very tests we are talking about there. And then he made an evaluation on the basis of that. In other words, there was the doctor-patient relationship, with a doctor in the picture, but the doctor didn't give the tests.

Now, in the instructions I mentioned this morning, that the Episcopal Church puts out to doctors, who are going to make the examination of all candidates for the clergy, they specifically ask the doctors to use this Minnesota Multiphasic Test.

The Presbyterian Church does similarly for missionaries. Other churches do likewise. So I think we do preserve this relationship, and I don't think the use of this testing is inconsistent with a medical-type relationship, Mr. Romney.

Mr. ROMNEY. No, but—

Mr. GALLAGHER. Would you yield, please?

This interests me, the church aspect of this. We have had some experts here testify that if a person were overly religious, this might be scored as a negative factor. If they do take this test, would an overreligious feeling disqualify a person applying for a rector's job?

Mr. LUCE. Well, I think the Committee ought to consider, at least, hearing from the churches themselves. I am not speaking for the churches. But here is the report form for psychological examination required under canons 26, 34, 37, and 38 of the Episcopal Church: "Examiners are urged to use, whenever possible, psychological and psychodiagnostic tests as a regular part of their examinations, such as—" and then it gives a number of them, and one is the MMPI.

Now, the Presbyterian Church puts out a guide for counseling prospective church workers in which they recommend this type of testing under certain circumstances. Supplement No. 2 is a guide and direction as to how to use the MMPI test.

Now, I can't believe that there is any moral question involved in this testing, when it is properly administered. I will grant that the mass application of this, by people who don't preserve this doctor-patient type relationship, raises some very serious questions. But when respectable, fine institutions such as I have just mentioned are using this type of testing, I can't see there is a moral question.

Mr. GALLAGHER. You don't feel there is a moral question involved to ask a person his innermost thoughts, which are theirs constitutional-

ly, guaranteed them to be their private thoughts? You don't feel there is a moral question in probing into a man's thinking and what he might think, as these tests indicate?

Mr. LUCE. If the tests are administered in a doctor-patient type of relationship, I don't believe there is.

Mr. GALLAGHER. There is no doctor in attendance at your tests; it is a skilled technician.

Mr. LUCE. Well, the tests are handled only by a doctor of psychology, not an M.D. That is true. But he probably knows a good deal more about this field than an ordinary general practitioner does.

Mr. GALLAGHER. Certainly he does, but he is not a doctor. You were talking about a doctor.

Mr. LUCE. Medical type, I said, yes.

Mr. GALLAGHER. There is a great deal of difference. The psychologists are pushing the tests, and they wrap it in all sorts of fine packaging and all facets of legitimacy. But do you feel that there is no moral infringement in asking a person these questions?

Mr. LUCE. If the man is applying for a job, where his personal characteristics are important to his qualifications for the job, and if the test is handled in the private way in which we handle it, I cannot see that there is a moral question.

And I think if there was a moral question, that my church and the Presbyterian Church and others wouldn't be using it.

Mr. GALLAGHER. You feel a person should answer such questions as appear in these tests, as to whether or not Christ performed miracles, and whether he changed bread and water into his body and blood?

Do you think there is no moral infringement to ask that of a person not of the Christian faith, that a Jewish person should be asked to pass on the second coming of Christ, when he doesn't accept the first?

Mr. LUCE. Well, if an employee objects to one of the particular questions you are talking about, he doesn't have to answer it, if he doesn't want to. It happens we haven't had any objections to this type of question.

Mr. GALLAGHER. These people are looking for promotions and therefore they are not going to object. This is the point of the whole argument as to why these people should not be subjected to this type of thing.

I will read you a couple of questions: "I go to church every week," and "I believe in the second coming of Christ." Suppose it is a Jewish person or a Moslem. This is all aimed at one particular mass, and the mass is composed of a great many individuals. Do you think there is no moral question involved, when you ask a non-Christian that question?

Mr. LUCE. I don't think there is a moral question in view of the fact it is handled in private. You either believe or you don't believe.

Mr. GALLAGHER. Then you place him at a disadvantage. If a person does believe, and he is a religious person, he might think this fellow doesn't know much about the facts of life and therefore you put him at an unfair advantage.

Mr. LUCE. Well, if we employed a consultant who regarded the answers in that manner, I might agree with you.

Mr. GALLAGHER. Well, I don't think the U.S. Government or any of its employees can always assume there are always good, kind, and

understanding men giving these tests. And if you go on that basis, you might have the very best of intended men in your organization, but we are trying to set some standards here, for the Government of the United States.

I think Mr. Macy has pointed out the flaws in this, and the mere fact that some churches give these tests doesn't in any way justify the intrusion into a man's privacy.

I think this is one of the problems we are trying to overcome, that these are closed and very pious statements. They are wrapped in some very attractive wrappings that have all of the degree of institutionalized respectability, but that does not necessarily make it so.

And, Mr. Luce, that is the point of this discussion here. It may well serve your purpose, but the problem involved here is whether or not we are in fact invading the privacy of the individual who is subjected to this humiliation and this indignity.

Mr. LUCE. Well, I don't know it is humiliation, but—

Mr. GALLAGHER. Would you answer all of these questions?

Mr. LUCE. I would feel no hesitancy.

Mr. GALLAGHER. Would you like in your public record all about your sex life?

Mr. LUCE. This is not a public record.

Mr. GALLAGHER. The personnel files become public records.

Mr. LUCE. Indeed not. As I said, nobody in the Government sees the answers to these questions. The psychologist who discusses the man's interests with him, and his personality with him, sees the answers and then destroys them. This never gets into any Government file.

Mr. GALLAGHER. You might have a tighter system out there, but we are talking about a set of standards for the Government. These things we have found follow people in their professional careers in the U.S. Government.

Mr. LUCE. Ours won't follow them.

Mr. GALLAGHER. Yours stays in your Deputy Administrator's safe, I believe you said?

Mr. LUCE. No. The answers to the questions go to the psychologist, who after he has read them and made his appraisal of the man's abilities and interests and aptitudes and personality, destroys them.

The appraisal that he gives us goes to the Deputy Administrator. It does not give the answers to any of these questions. And I have here, and would be happy to give the committee, a sample appraisal of the sort of report we get.

Mr. GALLAGHER. We would like to have that and make it a part of the record.

APPRAISAL REPORT REGARDING JOHN SMITH BY THE PSYCHOLOGICAL SERVICE
OF PITTSBURGH

CONFIDENTIAL REPORT

To: A. S. Black, Vice President of Personnel, XYZ Co., Pittsburgh, Pa.

Present position: Chemical sales, ABC Co., Pittsburgh, Pa., age: 26.

Purpose of referral: District sales manager with particular attention given to advancement eventually to higher level sales management.

Date: October 17.

Under no circumstances should this report be shown to the examinee or any other person not professionally interested in the examinee.

PERSONAL HISTORY

Early family life

Mr. Smith grew up in Columbus, Ohio, and was the older of two boys. His father was a mild, quiet man and was employed at the same company all his life in the accounting department. Mr. Smith's mother was a dynamic, energetic person, set high standards for her children, and strongly influenced them to go on to school. It was a fairly normal home life in a middle-class family.

Educational background

In high school his grades were a little above average but not outstanding. He was considered a fairly serious boy but generally well liked by his classmates. He played football but was not a star. He held part-time jobs from an early age and earned all his personal expense money during high school. He saved money during the summers in preparation for college.

Upon graduation from high school in 1953, he enrolled at Oberlin College and received his B.S. in chemistry in 1957. He received a one-third scholarship from his father's company and was required to earn a third of his expenses himself. This he was able to do by working summers with his father's firm. His father supplied him with most of the rest of the money, and he had to borrow some from a college fund. He was not an outstanding student in college but was distinctly better in chemistry and mathematics and at no time was in danger of failing. He worked as a waiter throughout the school year. Although he did some dating in college, he had little time for social life.

Work history

Upon completing college, he participated in many job interviews but turned most of them down because they were predominantly related to research chemistry. He was not sure of his vocational goal but accepted an offer by his present company as sales trainee in the Chicago office. He was given very little training by the company and was soon assigned to his own district as a plastics salesman. He has been with the company now approximately 3 years and he has developed this territory to the point where he is one of the leading salesmen in his firm. He has had several increases in salary and he likes his job. His only reason for considering other employment at this time is because he is interested in moving in the direction of sales management, and he feels there is little opportunity for him to do this in his present company. He has the feeling that no one in the company is aware of his ambitions and his present manager is not thought too highly of by top management people.

Family and social activities

Mr. Smith met his wife while they were both in college and they were married shortly after graduation. They have one child. His primary recreation is golf and family activities. Because of extensive traveling in his job, he has not participated in civic and social organizations.

Health

According to his own statement, he has no physical disability at this time. He had a little stomach trouble at one time when he had a particularly difficult supervisor, but he has no problems of this kind now. He smokes and drinks moderately.

PSYCHOLOGICAL DESCRIPTION

Abilities

On the tests of intellectual capabilities, Mr. Smith is average to superior when compared with college graduates. He is average in the verbal area which is the ability to grasp and understand ideas expressed in words. He is superior, however, in the areas of quantitative reasoning, critical thinking, and logical reasoning. While not outstanding in general breadth of information, he is able to hold his own with college trained people, and he expressed himself well in the interview. This is consistent with his progress in high school and college where he found that he had to work somewhat harder than the other students, especially in the languages and the social sciences. His vocabulary is somewhat limited but appears to be highly specific to the general area of chemistry and particularly the field of plastics. He has read a great deal in this area, and he also does extensive reading of a general business nature. There is evidence that this man uses his ability more effectively than most and is outstanding in the reasoning areas. On a test productive of creative thinking, he showed unusual ability to develop good ideas when presented with new and unusual situations. He appears to have the intellectual capabilities for further advancement.

Interests

His interests show a strong preference for the scientific field, along with a high interest in working with people and being of help to others. He enjoys reading, particularly science and business, and he is now taking a correspondence course through Alexander Hamilton Institute and enjoys this very much. He possesses an intellectual curiosity and is motivated by material gain and by positions of prestige and influence. The pattern is generally consistent with his present position and his desire to move toward more managerial assignments.

Personality

Personalitywise, Mr. Smith shows above-average physical drive and energy and is highly ambitious for advancement. At the same time, he is a serious-minded person and is not likely to make impulsive decisions. In many respects, he appears to be more of a problem solver than a salesman and would probably seldom if ever resort to high-pressure sales methods.

He has considerable confidence in meeting and dealing with people and while he wants people to like him, he is to a large extent socially independent. He is not a "gladhandler," is quite capable of working by himself, and is not inclined to lean heavily upon other people. He is independent in his thinking, will argue for what he believes to be right, and will not be easily dominated by others. Although he likes to help people, he sets high standards of performance both for himself and for others and may be a little "hard nosed" in working with people who do not produce. Although not a particularly thin-skinned person, he does have feelings and consequently has some perception of the feelings of others.

He is not detail minded and finds it difficult to complete some of the clerical aspects of his work. He does not appear to require a great deal of praise and encouragement but rather gets his greatest satisfaction in accomplishment on the job and by the money he is able to make. He is not likely to be easily satisfied unless there are continued advancement possibilities ahead.

POTENTIAL FOR DEVELOPMENT

Conclusions and recommendations

Mr. Smith has a number of assets for sales and sales management in the chemical field. His intellectual capabilities suggest that he can learn fairly easily and he is particularly outstanding in ability to reason through problems of a technical or logical nature. His interests are typical of people in sales and sales management jobs in this industry and are very similar to the pattern shown by your most successful sales management people that we have seen in the past. Although interested in people and in personal contact situations, he is not a high-pressure salesman but is primarily oriented to problem solving and service. He makes a very favorable appearance, expresses himself easily, and should be generally acceptable to customers at all levels. He can take the leadership role and would not hesitate to direct other people or to supervise their activities. He is a hard-working person and is ambitious for advancement.

There are several possible limitations. Mr. Smith is not as strong in the verbal area as might be desirable for higher level management positions, and while he is attempting to broaden his general fund of information, he is now largely restricted to the area of chemistry and plastics and, to a lesser extent, to general business. Mr. Smith is not strong on detail and tends to avoid this type of activity as much as possible. At the same time, he is not as strongly persuasive a person as one might like to have in this situation and would not be a good risk in a situation requiring high-pressure methods. He may tend to be a little too independent for some situations and may not be the easiest man to control. He will argue fairly strongly if he believes he is right, but when the decision is made, will apply himself diligently to carrying it out whether it is his plan or someone else's. Being a little sensitive, he should be handled as diplomatically as possible, but on the whole, he should accept instruction and criticism in the way it is intended.

To be most effective, Mr. Smith should have good clerical help and as he advances, even an administrative assistant might be considered. He will set a very rapid pace for the salesmen who work with him and may need to be cautioned not to set unrealistic standards for them. While he would be willing to accept a job as a salesman with your company, he is definitely interested in the opportunity for sales management and would probably leave the company if he does not see this opportunity fairly soon. He should be capable of training and developing salesmen but has had no experience along this line and would be most effective if given some assistance in the early stages. In view of the above

information, Mr. Smith is considered a favorable candidate for district manager in one of your smaller districts, and he definitely has potential for advancement to higher level sales management position.

Mr. GALLAGHER. We were advised yesterday that there is a great tendency on the part of the psychologists to re-test, and therefore to re-test. In order to make a determination at some future date as to the validity of the original test, one must have to keep the original test in the interests of determined social behavior patterns.

Mr. LUCE. Well, we excluded that possibility, Mr. Chairman.

Mr. GALLAGHER. Now where are these tests given?

Mr. LUCE. In Portland.

Mr. GALLAGHER. Where, I mean what the particular circumstance is?

Mr. LUCE. Well, for a particular job we first, through our normal selection process, pick the field of candidates that we think would be the best qualified.

Let's suppose this is a chief of power operations. We would go through our rolls of employment, and find those men that we think would have the best qualifications for filling this particular vacancy.

This is done by a committee of supervisory personnel, whom we think know what it takes to fill this job.

Mr. GALLAGHER. Leading up to that point, how are these actual tests administered?

Mr. LUCE. Yes. This is how we get the field of men to whom they are administered.

Mr. GALLAGHER. No objection at all up to that point.

Mr. LUCE. Then the psychologist, Dr. Porter, from Pittsburgh, comes out and meets with these men individually, if there are only a few of them, or meets with them as a group if there are more than a few, and explains to them the tests that he is going to give them.

He tells them what it is all about, and why we are doing it, and that after the test is given he will have an individual conference with each one of them to discuss the result, and they will know what his appraisal is and have a chance to discuss it with him, before he gives it to us.

Then the test is taken, superintended by him or an assistant of his, not by us, and then he takes the tests, and while he is still out there, since he is quite a ways from Pittsburgh, he evaluates the tests.

Then he conducts his post-testing interviews with each of the persons, and discusses with them the results of the test, and gets their reactions to it and anything further they would like to add.

Then he gives us a written report of the type that I have just given the committee a sample. Then that written report goes to my deputy administrator, No. 2 man in our organization, and he, together with the selecting committee, considers this, along with all of these other things that Mr. Romney pointed out, and read from the civil service policies, the report of the man's superintendent, the interviews with the men themselves, their past performance, their education, what we have observed about their personality, and so forth.

And finally the selection is made.

Mr. GALLAGHER. Is there any certificate that these tests are destroyed?

Mr. LUCE. No. We could get a certificate, if you want.

Mr. GALLAGHER. Don't you think that would be important, since psychologists have a way of keeping tests so they can see whether their tests were correct?

Mr. LUCE. Well, I have confidence in the men we retained, just as if I employed a doctor or lawyer, I wouldn't employ one unless I thought he was honest and competent, and would do what he said he would do.

Mr. GALLAGHER. Did you ever ask to see these questions? Or do you take it strictly on the competency of the psychologist?

Mr. LUCE. Well, I would say I take it mainly on the competency of the psychologist. I don't attempt to ask or to tell a medical doctor what questions he will ask in a medical examination, and much less would I attempt to rewrite the psychologist's examination. That would be a mistake.

However, I did look through the personality tests, to look at those questions, and frankly there are some questions in there that seem to me a little silly, but I am not a psychologist.

I know that they are questions that are of the same type as psychiatrists do ask in personal interviews with people. So I relied and do rely upon the competence of the professional people we have selected that they know what they are doing.

Mr. GALLAGHER. You as an administrator have seen these questions that are silly. Don't you think there is a duty owed by you to your employees to protect them from indignity?

Mr. LUCE. Well, the employees don't have to answer these questions, if they don't want to.

Mr. GALLAGHER. That is an old song.

Mr. LUCE. But merely because I think a question is silly doesn't mean it is silly, Mr. Chairman.

Mr. GALLAGHER. But you are hiring this test.

Mr. LUCE. Well, many times when I was employed as an attorney, sitting at the counsel table in a trial, I might want to ask a question of a witness and my client might think it a silly question and that I shouldn't ask it. But he has employed me because I am a lawyer, and I presumably have the professional competence to know what questions to ask and what questions not to ask. I have the same respect for the profession of psychologists.

Mr. GALLAGHER. You are looking at one side of the coin. The other side is that you do have a professional responsibility toward your employees.

Mr. LUCE. I do, and we have done the best we know how to assure that our employees get their privacy respected, and at the same time get the advantage of these tests, so they get into the right jobs. That is most important.

Mr. GALLAGHER. Do you feel in asking these questions, compelling a person to answer these questions, that you are carrying out this responsibility?

Mr. LUCE. We don't compel them to answer them. But to answer your question, yes, I think we are carrying out our responsibility. We are trying hard.

Mr. GALLAGHER. If he did not answer them, would he not be eliminated from the group under consideration?

Mr. LUCE. No, he would not.

Mr. GALLAGHER. Has there ever been anyone promoted who refused to take this test?

Mr. LUCE. We haven't had such a case yet.

Mr. GALLAGHER. Well, that is probably the reason.

Mr. LUCE. Well, it is hard to convey in a hearing room the relationship between the management in an organization like Bonneville and our employees, but I assure you it is a very good relationship. We don't have a feeling of antagonism, or concern by the employees that some kind of retribution will be delivered upon them if they don't do everything we ask them to do.

You should have heard the comments when we reduced the hours that the coffee shop is open for coffee, and you would have been reassured that our employees have no hesitancy in telling the Administrator they disagree with him.

Mr. GALLAGHER. Do they tell the Administrator all of the questions that are asked here?

Mr. LUCE. No.

Mr. GALLAGHER. Does the Administrator tell them whether he has a happy sex life or whether he believes there is a devil or hell or hereafter, this type of thing?

We are not questioning the employer-employee relationship. We understand that is a happy and congenial group at Bonneville. We are concerned with a far broader question here, as to whether or not we are properly protecting the rights of Federal employees. And we hope that the rippling effect of this will have some feeling at the other end, in industry.

Now, the mere justification you have given us may well make for technically sound people, but is it at the expense of having to bare their souls for these promotions?

Mr. Macy seems to agree, and many of the other witnesses, that this type of thing is intrusive and violative of a person's privacy.

Mr. Horton?

Mr. HORTON. Mr. Luce, at the outset I do want to give you credit, as the Administrator of Bonneville, for trying to give these tests under certain safeguards. And I am impressed with the fact that you do have safeguards, and I think you ought to be commended for this.

The problem that I have is the same problem the chairman has, that I am concerned that even under the safeguards that you have provided and with the pressures on the employee who is desirous of a promotion, that there may be areas in which his privacy is being invaded, and he has got a family, he has a job, so he wants to get a promotion, so he is going to certainly comply with the regulations or go along with the group.

So I am interested to find out whether or not you are going to, when you present your case as it were to the Chairman or to the Civil Service Commission, I am interested to find out whether you, as the administrator, are going to recommend that this same procedure be continued under the safeguards that you have established.

Mr. LUCE. Well, Congressman Horton, the decision as to what recommendation is asked of the Civil Service Commission will actually be the Department's decision. You are asking me what I will recommend to the Department of the Interior?

Mr. HORTON. If you want to be technical, yes, that is right.

Mr. LUCE. I will recommend to the Department of the Interior that in my view the way we have conducted this testing, and the limited manner in which it has been used, and the careful way in which we have preserved the privacy of our employees, are consistent with the policies of the Civil Service Commission, and I will request the Interior Department to ask the Civil Service Commission to appraise or review the tests and our testing procedures that we use, and approve them.

Mr. HORTON. Now, in answer to the chairman, you indicated if an employee refused to take the test, this would not be a mark against him?

Mr. LUCE. I said the question has never arisen, but the answer to your question is "No, this will not be a mark against him."

Mr. HORTON. If a person was being considered for promotion, I assume he would be informed of this, and then he would be asked if he would take these tests, or this particular test, and if he said he would not, then what would happen?

Mr. LUCE. Well, then, we would have to rely only upon the interviews with him, the interviews with his former supervisors, looking at his education, looking at his experience, and acting on our hunches, you might say, to predict how he would perform under the new conditions of his new job. Then we would compare him with the other candidates for the job, and make the decision.

Mr. HORTON. Isn't it fair to say, though, that your hunches in that case would probably be a little bit against him because he wouldn't take the test?

Mr. LUCE. Well, you are asking a very hypothetical question. I would say not necessarily.

Mr. GALLAGHER. It states here in your report, Mr. Luce: "He may tend to be a little too independent for some situations, and may not be the easiest man to control." I wonder whether or not that might not be one of the recommendations in the potential for development?

Mr. LUCE. Well, you certainly would not want a man as the second man in a dispatching room that would tend to be a little independent and hard to control, because that chief dispatcher is going to have to be able to tell him what switching to do and make darn sure he is going to do it.

Mr. GALLAGHER. Would this be an indication of that if he would not take the test?

Mr. LUCE. It would depend upon the reason.

Mr. GALLAGHER. If he wanted to protect his privacy?

Mr. LUCE. Yes, if a man came to me and said, "Look, I think these tests are opposed to my religion," or, "I think they are going to make me answer some personal questions that I just don't want to answer," and I thought he had a valid reason for it, I would take that into account. He is not required to take the tests.

Mr. HORTON. I want to come to the other part of the safeguard, which was the report you have given to us. Is this report that you turned over to us—and I realize you would want to protect names——

Mr. LUCE. This is just a sample, Mr. Horton.

Mr. HORTON. Is this an actual case, though?

Mr. LUCE. Not in Bonneville; no, sir.

Mr. HORTON. Is this a sample case that the psychological service puts out?

Mr. LUCE. Right. But I have read, of course, our own reports and I can tell you it is a fair sample.

Mr. HORTON. Now, they do get into some of the answers, not perhaps in the sense that they give you the specific answer to the question, but they do draw conclusions?

Mr. LUCE. Oh, yes, they make an appraisal.

Mr. HORTON. Based on the answers that are given?

Mr. LUCE. That is the purpose of the examination, that is right.

Mr. HORTON. What happens to this report that is sent in—this report which I assume is similar to this?

Mr. LUCE. That report, as I testified this morning, is kept by the Deputy Administrator in a safe in his office. It does not go into the personnel jacket of the employee.

Mr. HORTON. So it is available?

Mr. LUCE. Yes; it is available in the safe of the Deputy Administrator.

Mr. HORTON. Is he the only one that has access to that safe?

Mr. LUCE. That is correct. I don't even know the combination, although I assume I could find out.

Mr. HORTON. Nobody else in his office?

Mr. LUCE. As far as I know, he is the only one that has access to it.

Mr. GALLAGHER. Wouldn't a Federal investigator have access to it?

Mr. LUCE. Well, we have never had that problem. If an FBI man presented himself and asked for it, I think I would refer the matter to the Interior Department for discussion with the Attorney General as to whether he got it. I obviously couldn't give him a final "No."

Mr. HORTON. How long do you keep them—keep these reports?

Mr. LUCE. The appraisals?

Mr. HORTON. Yes.

Mr. LUCE. Well, we have only been in this program for about 2 years, and as far as I know, we have them all at the present time, unless a man resigns or dies, or for some reason is no longer with us, then there is no point in keeping them.

Mr. HORTON. It is your opinion that this is a valuable guide in the evaluation of a person for a promotion?

Mr. LUCE. Yes, sir; we wouldn't spend \$15,000 to get such reports if we didn't think they were valuable.

Mr. HORTON. And yet you have indicated in your statement that you could do without it?

Mr. LUCE. Yes. We could do without a lot of things, and do an inferior job, Mr. Congressman.

Mr. HORTON. Now, you talked earlier today about some of these promotions that were involved, and you talked in terms of comparison with the people in the airport and that sort of thing. Are all of these examples that you have been talking about, where tests have been given, in the category similar to that; that is, where there is a dangerous situation, or where someone is called upon to exercise great care in the duties he will perform?

Mr. LUCE. I would have to answer the question "No," but then qualify the answer. We test for the positions of the type you just described, and also for supervisory personnel, who will be over the man who has his hand on the switch, or the man who is at the dispatching desk.

I have a list here of the positions that we have tested for. In general categories, we have tested in only 9 out of more than 100.

Mr. GALLAGHER. Did you take one, Mr. Luce?

Mr. LUCE. No; I did not.

Mr. GALLAGHER. Would you?

Mr. LUCE. Yes.

Mr. HORTON. Mr. Luce, I think it would be well to make that part of the record, the positions that you test for, and you have it in some form that can be presented, do you?

Mr. LUCE. I have; yes, sir.

Mr. HORTON. Could we make that a part of the record, Mr. Chairman?

Mr. GALLAGHER. Yes; without objection, it will be made part of the record.

POSITIONS FILLED USING TEST AUGMENTATION OF EVALUATION FACTORS AS OF
MAY 18, 1965

LOS ANGELES

Seattle area manager
Spokane area power manager
Kalispell district manager
Head, substation construction
Assistant chief, branch of construction
Office services manager
Budget officer
Substation maintenance superintendent,
Seattle
Idaho Falls area manager¹
Idaho Falls area power manager (2)
Assistant to administrator (2)
Assistant power manager¹
Head, substation design
Area engineer, Walla Walla
Portland area power manager
Budget coordinator (2)

PITTSBURGH

System operations officer¹
Operations engineer
Operations superintendent, Walla Walla
Assistant power dispatcher (3)
Chief IIA—Midway
Portland area engineer (2)
Transmission superintendent, Seattle¹
Spokane area manager¹
Seattle area manager¹
Wenatchee district engineer¹
Walla Walla area manager¹
Spokane area power manager¹

¹ Validation testing.

Mr. HORTON. Whose idea was it to institute this procedure of testing?

Mr. LUCE. Mine.

Mr. HORTON. Where did you get the idea?

Mr. LUCE. Well, I got the idea from several sources before I became convinced that we should use this type of testing. As I mentioned, I first became familiar with this when I was on the vestry of our church, and was senior warden.

Mr. HORTON. Mr. Luce, you are not trying to justify the position of the Federal Government doing this on the basis that the church does it?

Mr. LUCE. I am suggesting that it certainly removes, in my way of thinking, any moral issue. But to answer your question, that is where I first became acquainted with this kind of testing.

After I got on the job at Bonneville, and we discovered we had a lot of people who were going to retire out of top positions, and our program was expanding tremendously and we were going to have to fill a lot of jobs, I tried to find ways of improving our selection of personnel.

Now, specifically, what I did was talk to one of the top men in a private utility company, and asked him how they did it, the various methods they used, and he was very enthusiastic about psychological testing.

I also talked with a man who had been a general sales manager for an industrial company, and had had to pick salesmen. He thought this had been very useful in the selection of employees. I also discussed it with some other people in the industry, and then we decided to employ, on a trial basis, you might say, two reputable firms, who we checked out——

Mr. HORTON. Did you get approval for that procedure from any higher-up in your agency?

Mr. LUCE. No. I am the head of the agency.

Mr. HORTON. I mean from the Department.

Mr. LUCE. No, it was not required.

Mr. HORTON. So you put it in without any further approval. Was it submitted to the Civil Service Commission?

Mr. LUCE. No, it was not required to be submitted, and it was not submitted.

Mr. HORTON. It was not. So, up to this point, it has not been submitted?

Mr. LUCE. That is correct.

Mr. HORTON. Nor have all of these questions, or the tests that are given been submitted to the Civil Service Commission?

Mr. LUCE. Not by us; no.

Mr. HORTON. Now, you selected two agencies to perform these tests, and there came a time when you decided you would release one agency and use another?

Mr. LUCE. Right. Well, the contract of one expired, and it was a question of whether to renew it.

Mr. HORTON. But you decided not to renew one. I think you said one of the reasons why you stayed with Psychological Service of Pittsburgh was because of their experience in the utility field?

Mr. LUCE. Right.

Mr. HORTON. Isn't there a possibility that they pass this knowledge around among the employees of the Psychological Service of Pittsburgh, so this is how they get their experience and knowledge about their handling of these individual cases?

Mr. LUCE. I am not sure that I understand your question.

Mr. HORTON. I am talking about the employees of Psychological Service of Pittsburgh, the consultants, as you call them, whoever they happen to be. Are they men, or women, or both?

Mr. LUCE. Both, and in this case, Dr. Porter, one of the principal men in this particular organization, has been handling our account. But there are women in the organization, too.

Mr. HORTON. Is he the only one who has given these tests in your organization?

Mr. LUCE. As far as I know. I think that is correct. But to answer your question, how do I know what use they make of the test answers——

Mr. HORTON. That is right.

Mr. LUCE. I have their word for it that these are destroyed. Now, that is the answer to your question. I have confidence in their professional responsibility.

Mr. HORTON. Have they indicated to you that they destroy them, destroy the answers, prior to the time they make copies of them?

Mr. LUCE. Oh, yes.

Mr. HORTON. So this question——

Mr. LUCE. There would be no point in making copies of them. They have the test answers; we don't.

Mr. HORTON. What makes you think they have this expertise in this utility field?

Mr. LUCE. Because they have been doing this sort of thing for other utilities for nearly 20 years.

Mr. HORTON. And this, in your judgment, gives them more expertise in this field?

Mr. LUCE. More expertise than if they hadn't done it. I agree with the chairman that a mere 20 years' experience, per se, doesn't prove a thing is right, but it lends some credibility to it, certainly.

Mr. HORTON. In your statement you said no one has a vested right to Federal employment, or for that matter, to employment with a private firm, and then you go on to say in order to qualify, and you refer in order to apply, and you referred to this in other testimony, they would have to take physical examinations, and this sometimes can be embarrassing, and you talk about fingerprinting and other matters that are involved with employment, or advancement.

I assume what you are doing there is reasoning that as a result of a person applying for employment, or as a result of a desire for advancement, he or she has to give up a certain portion of their right to privacy.

Mr. LUCE. That is right.

Mr. HORTON. The only question we have, as I see it, is where we draw this line.

Mr. LUCE. I think that is the question.

Mr. HORTON. You, at least, draw the line on the other side of giving these types of tests? In other words, you feel that does not invade the right of privacy of the employee, so you feel that these are proper under certain safeguards which you have outlined?

Mr. LUCE. Yes, sir. I think it would be entirely possible to give these tests in such a way that they would fall on the other side of the line and constitute an unwarranted invasion of privacy. I think the way we do it, they do not.

Mr. HORTON. Then, the question is not about the test, but the question is about the safeguards, is that right?

Mr. LUCE. That is correct.

Mr. HORTON. So if you have the proper safeguards, in your judgment, it is all right to give these types of tests?

Mr. LUCE. The ones we are using; yes.

Mr. HORTON. And you feel that the safeguards that you have been using, and the ones you outlined are adequate?

Mr. LUCE. Yes, sir.

Mr. HORTON. Now, turning to these tests, some of the questions were read, but as I understand this Edwards Personal Preference Schedule, there is a section A and section B, and the directions indicate, as I read them hastily, that you can pick one or the other, and in some instances you can pick both, but you should pick one at least, and it says: "Some of the pairs of statements have to do with your life, such as A and B above. Other pairs of statements have to do with how you feel, and then they give an example. "Which of these two state-

ments is more characteristic of how you feel?" And then it goes on to describe that. It says: "Your choice in each instance should be in terms of what you like and how you feel at the present time, and not in terms of what you think you should like or how you think you should feel. This is not a test. There are no right or wrong answers. Your choices should be a description of your own personal likes and feelings. Make a choice for every pair of statements. Do not skip any."

And then we come—and some of them were read, but here is a series, "66-A. I would like to accomplish something of great significance." "B. I like to kiss attractive persons of the opposite sex." Now, that is the alternative that is given there. I will just read the next one.

"67-A. I like to praise someone I admire.

"B. I like to be regarded as physically attractive by those of the opposite sex."

"68-A. I like to keep my things neat and orderly on my desk or workspace.

"B. I like to be in love with someone of the opposite sex."

"69-A. I like to talk about my achievements.

"B. I like to listen to or tell jokes in which sex plays a major part."

Now, don't you think that series—I will read 70, too.

"A. I like to do things in my own way and without regard to what others may think.

"B. I like to read books and plays in which sex plays a major part."

Now, that is an alternative choice, and it goes on, and there are others, and the same questions are repeated in many of them.

For example, 209-A, "I like to kiss attractive persons of the opposite sex; B, I like to experiment and try new things."

Another, "A. I like to meet new people; B. I like to kiss attractive persons of the opposite sex."

Now, is it your feeling that a person's rights of privacy is not invaded by these types of questions?

Mr. LUCE. The particular tests you are referring to as our statement indicates, is used very infrequently by us, but I think under the right circumstances, the guarantees of privacy that we have indicated, that where a competent psychologist feels such an examination would assist him in appraising the personal qualifications of a man, the personality of a man to fill a particular position, that it is not improper. In any event, I don't think it is proper for me, as Administrator, to try to rewrite psychological examinations.

Mr. HORTON. I would agree with that. On the other hand, I think you have a responsibility as an Administrator to see the problems with regard to invasion of right of privacy and to protect that. I am trying to find out whether or not in your opinion you feel these questions invade that right of privacy.

Mr. LUCE. I don't think they do. And I think if a psychiatrist were giving an examination——

Mr. GALLAGHER. They don't. Psychologists give them.

Mr. LUCE. But if a psychiatrist were giving the examination——

Mr. HORTON. This is not a psychiatrist.

Mr. LUCE. Well, the question on the issue of invasion of privacy is identical. You cannot examine a man's personality without asking

some questions that to you and me as lawyers might seem irrelevant or worse.

Mr. HORTON. I am not arguing with you on that. The point I am trying to make is these questions are asked; they are not under your control; they are under the control of Psychological Services of Pittsburgh; it may be this doctor you referred to; it may not be; it could be any person they sent out there; they may be qualified; they may not be qualified. But the question I am concerned about is whether or not in your judgment these questions are an invasion of the right of privacy of an employee?

Mr. LUCE. As I have told you, I do not think so, under the circumstances we use them.

Mr. GALLAGHER. Even a lawyer can't ask any question he desires. There is the Bill of Rights. The Bill of Rights also would prevent a social scientist or psychologist from going beyond the limits of the fourth amendment, for example.

Now, do you think in the interest of obtaining behavior patterns that a person should be forced to answer questions that the Constitution gives him a protection against answering? It is unlawful search and seizure of one's thoughts.

Mr. LUCE. Under the circumstances we do it; I don't think it raises a constitutional question.

Mr. GALLAGHER. Under any circumstances. There are no circumstances in which a person can be compelled to testify against himself.

Mr. LUCE. Oh, yes. On form 57, when you apply for Federal service, you have to state whether you have ever been arrested.

Mr. GALLAGHER. Yes, but that is not testimony against yourself. I am talking about a person having the right to raise the fifth amendment. Similarly, in cases like this, it seems to me, there ought to be adequate protection through the fourth amendment.

Mr. LUCE. My point is when you apply for employment, you consent to the employer asking relevant information about your qualifications for the job. On form 57, the basic Federal form for employment application, you have to tell whether you belong or have belonged to any subversive organizations. Now, the Government would have no right to take John Q. Citizen off the street and ask, "See here, I want to know if you belong to any subversive organization." That would be clearly unconstitutional. But if a person applies for Federal employment, it is not only the Government's right but duty to ask it.

Mr. GALLAGHER. Do you think it is a duty to intrude upon the privacy of thoughts of any person seeking Government employment?

Mr. LUCE. Not to go beyond a reasonable line; no, sir.

Mr. GALLAGHER. Beyond a reasonable line, sex, religion, private thoughts, dreams. Do you think you have a duty to inquire into a person's dreams? That is what you are doing. You are authorizing a probe of dreams, sex, and religion.

Mr. LUCE. No, we are not.

Mr. GALLAGHER. You are buying this test and this test requests just that information.

Mr. LUCE. What we are buying is expert advice.

Mr. GALLAGHER. Let's get off the advice. Let's talk about individuals. Let's stop talking about masses and patterns. Let's talk about the individuals concerned here. Do you think the Government has a right or you have a duty to make inquiries of that nature?

Mr. LUCE. Where it is necessary to determine the qualifications for the particular job, I think we have.

Mr. GALLAGHER. How can a person's dream—

Mr. LUCE. I would have to be a psychologist to answer that question.

Mr. GALLAGHER. No, you don't. You are a lawyer, a skilled administrator, you have a high reputation, and you are the one who is authorizing this type of inquiry.

Mr. LUCE. Well, I know in a general way, from college psychology reading, that a psychiatrist or psychologist, from a man's or women's dreams, can learn a little something about his personality.

Mr. GALLAGHER. Do you think they have a right? We are not talking about whether they can or not. Of course, they can. But do they have a right, under the guise of determining social behavior patterns, to make this voyage?

Mr. LUCE. Well, the right we are talking about is not the right of the psychologist to make the examination.

Mr. GALLAGHER. The right you have to authorize it.

Mr. LUCE. The right of the employer to find out the relevant qualifications of an employee for a job.

Mr. HORTON. Excuse me. On the other side is the right of privacy of the employee. And this is the thing we are talking about trying to protect.

Mr. LUCE. I am interested in protecting it, too. But as I pointed out, when an employee asks for employment, he gives up a part of his right to privacy, he is fingerprinted, investigated by the FBI, he has to tell if he has committed crimes, he has to tell if he belongs to any subversive organization.

Mr. HORTON. Does he have to take a choice of "I would like to accomplish something of great significance," or "I would like to kiss persons of the opposite sex"?

Mr. LUCE. Well, if he is applying for a job in which his emotional constitution is an important part of the qualification for the job—a job in which if he goes to pieces, he may endanger the lives of others or the property of the Government, then I would say yes, he consents to relevant inquiry. We will have to establish to the satisfaction of the Civil Service Commission that this is a relevant inquiry.

Mr. GALLAGHER. Do you think that this inquiry up to now would come under the new policies set down by the Civil Service Commission?

Mr. LUCE. I think it is the type of inquiry they would have to approve before we could use it any further, Mr. Chairman. I have already told our people in Portland not to use these personality tests until we have further instructions from the Civil Service Commission.

Mr. HORTON. Mr. Chairman, would you yield here? In earlier testimony you did testify that you would recommend to your superiors that this same procedure, with these safeguards, be continued.

Mr. LUCE. That is correct.

Mr. GALLAGHER. I am curious. You have brought up the fact that you have been a senior vestryman, and potential ministers or pastors must undergo such a test. Did you advocate this test when you were in that position?

Mr. LUCE. It wasn't up to me to advocate it. It was already established by the canons of the church in 1949.

Mr. GALLAGHER. I see. Now, how do you feel a person applying for a parsonage would answer question 476, "I am a special agent of God."

Mr. LUCE. Well, all I can say is that our church, and a number of others, use this examination. I don't know how—I assume he would answer that I am not a special agent of God. If he thought he was a special agent, why, he might have some problems. But I don't know really, how he would answer it.

Mr. GALLAGHER. Well, in a true vocation, this man would have to think he does have some agency of God?

Mr. LUCE. He would have to think he is called to the ministry, that is true, but that is a little different than being a special agent of God.

Mr. GALLAGHER. Well, it says, "special agent of God," special as opposed to the rest of the flock, in that he is going to devote his entire life to carrying out God's word. The fact I am trying to point out, Mr. Luce, in this line of questioning, is that you have given new respectability to the test that doesn't exactly make it so, by pointing out that the churches use it. A great many wonderful organizations use these tests. We are just wondering whether or not they have not overlooked the fundamental rights of an American citizen in invading the protections set up by the Constitution of the United States. That is what this is all about. Not whether it is technically proficient. It probably is.

We all would like to know, probably, everything about our employees in order to judge them. But it is a question of whether or not we have a right to go beyond the reasonable limits. And the testimony we have adduced so far would indicate that these tests go beyond reasonable limits. Mr. Macy feels so, most people in the U.S. Government feel so, and I am rather saddened to hear you do not think so.

Mr. Rosenthal?

Mr. ROSENTHAL. Mr. Luce, I am rather intrigued by your strong advocacy of these tests. You are the first person we have had so far from a Federal agency who seems quite determined to continue their use. Would you offer any thoughts on that subject? Or is it merely that you have been professionally convinced as to their value?

Mr. LUCE. The experience we have had with them convinces me that they help management to do a better job, and help our employees get into jobs where they will be happy and productive. There is nothing more complicated to it than that.

Mr. ROSENTHAL. May I ask how you got your present position?

Mr. LUCE. Well, I—

Mr. ROSENTHAL. If you don't feel like it is an invasion of anything.

Mr. LUCE. I was seated in my law office, on December 20, 1960 minding my own business, when the telephone rang—

Mr. ROSENTHAL. What year was this?

Mr. LUCE. 1960, immediately after President Kennedy's election. I had been a delegate to the Democratic Convention, and was acquainted with Secretary Udall and the Senators from our State. I was asked whether I would take this job. I said, "Let me think it over." I talked to my wife, and some of my friends, and here I am.

Mr. ROSENTHAL. That was the extent of your qualifying for the job?

Mr. LUCE. I didn't take a psychological examination. I might not have passed it.

Mr. ROSENTHAL. That was about the extent of it.

Mr. LUCE. Well, the man who called me knew who I was, knew a little about me.

Mr. GALLAGHER. He knew you were a delegate.

Mr. LUCE. Well, that didn't hurt me any, but I don't think it was the sole cause.

Mr. ROSENTHAL. What interests me, additionally, is that you have indicated you were a trial lawyer, had some experience as a lawyer, and you thought there was a lack of judgment when your client told you what was a proper question or not, that as long as you were doing the job you should make the decisions, as you are willing to defer to the psychologist. But in the courtroom you have the judge to determine whether the question is appropriate or violative of any constitutional rights or is relevant. Now in the case of psychological tests, where is the judge? Where is the intermediate between the psychologist who made up the questions and the person taking the test?

Mr. LUCE. The psychologist has to be the judge of the relevancy, just as the M.D. has to be the judge of a physical exam.

Mr. ROSENTHAL. Have you noticed we seem to find a void, or a lack of a judge, and in this case we look to a Federal official to make a determination as to whether some of these questions are pertinent to the inquiry, and we seem to be distressed when the official says that is out of my scope of responsibility.

Mr. LUCE. I have observed that.

Mr. ROSENTHAL. Regarding the questions Mr. Horton put to you, particularly No. 19, I don't know what the appropriate answer should be for a fellow who is looking for a promotion, when he is asked to make a choice between "I like to read books and plays where sex plays a major part," or "I like to be the center of attention in a group." Which do you think would be the most appropriate answer for promotion in your organization?

Mr. LUCE. I wouldn't know. I am not a psychologist.

Mr. ROSENTHAL. If you were taking the examination, what would you say?

Mr. LUCE. I think you are invading my privacy now.

Mr. GALLAGHER. Assuming this fellow wasn't a delegate, how would he answer?

Mr. ROSENTHAL. Now getting back to another answer that you gave, you said in your opinion there comes a point where a fellow is seeking a promotion, and at that point he willingly gives up some degree of his right of constitutional privacy.

Mr. LUCE. Yes, sir.

Mr. ROSENTHAL. And this is what you believe?

Mr. LUCE. That is the law, not what I believe.

Mr. ROSENTHAL. Where is that the law?

Mr. LUCE. If it were not the law, how could the Federal Government inquire of a job applicant whether he belonged to a subversive organization? It has no right to ask that of a man on the street.

Mr. ROSENTHAL. You don't think there is a difference in belonging to a subversive organization and deciding whether you like to kiss people of the opposite sex?

Mr. LUCE. As far as the fifth amendment is concerned, I would say the more serious question is whether you belong to a subversive organization, because that can subject you to criminal prosecution. Kissing a member of the opposite sex, so far, has not been outlawed.

Mr. GALLAGHER. We are heading in that direction. That is one of the reasons we are trying to eliminate the question as a condition of employment.

Mr. ROSENTHAL. I think most of the American public is willing to accept certain criminal offenses, violations, or convictions as precluding someone from either employment or promotion. But I am sort of amazed, frankly, that you can't see the distinction between that kind of thing and some of these questions that have been raised in these tests, that you have tacitly approved of, by giving them to your people.

Mr. LUCE. There is this vast difference. I see the answers to the questions on the Form 57. I don't see the answers, nor does anybody in Bonneville see the answers, to those questions.

Mr. ROSENTHAL. Right. But you know the questions are being asked. And you find nothing wrong with it. As a lawyer I feel we in the legal profession are sort of the last bastion of the preservation of constitutional rights, so I think we have a special obligation.

Mr. LUCE. I agree with you a hundred percent.

Mr. ROSENTHAL. As both a lawyer and an administrator, you don't feel there has been any violation of privacy by some of the types of questions here?

Mr. LUCE. Not the way we administer them; no. I think, as I say, it is possible to administer them in such a way that it would be a violation of privacy.

Mr. ROSENTHAL. I don't quite see the distinction between your giving the test with whatever safeguards you have, and giving the test to 20,000 people, or 3,000, in a wide open room. It seems to me the act of invasion occurs with the asking of the question.

Mr. LUCE. I would have to differ with you. I think where the question is established as part, or is included in a test that has been established as a reliable index of personality, that this is a reasonable invasion of privacy, if you want to so phrase it. Now you disagree with me.

Mr. ROSENTHAL. I don't think there is any such thing as a reasonable invasion of privacy.

Mr. LUCE. We say it is a reasonable invasion of privacy to ask a man if he belongs to a subversive organization, or as we also ask on the form 57 if he ever had a nervous breakdown.

Mr. ROSENTHAL. You don't see the difference between those questions on the form 57 and the questions in the MMPI?

Mr. LUCE. I think there is a bigger constitutional question in the form 57 questions than what we are doing.

Mr. GALLAGHER. You feel a person must stand psychologically naked for Federal employment?

Mr. LUCE. Well, no; I don't think that. I think where he goes into a key position, where this becomes very important, that he may be called upon to be examined in the way that we have described the examinations are held.

Mr. GALLAGHER. Then you feel there is some point where he must stand psychologically naked?

Mr. ROSENTHAL. He has already said that. He said that in substance.

Mr. LUCE. Of course the tests we give here, you gentlemen—and I am not criticizing you—but you are picking out certain questions out of hundreds and hundreds of questions.

Mr. GALLAGHER. Well, he can read the hundreds to you, if you want. We are just trying to make a point.

Mr. ROSENTHAL. We are impressed by even 5 out of 50. I will tell you what: I am impressed to the point where if the House were still in session today, and I don't think they are in session, I am prepared to offer a bill now or on Monday to prohibit the giving of psychological tests by any Federal agency, under any circumstances, at any place, and to make it a Federal crime for any Federal official to do it. That is how much I am impressed by the violation of privacy in the testimony we have had.

Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Reuss.

Mr. REUSS. Thank you, Mr. Chairman.

I feel a certain multiphasic empathy with the administrator. I was a delegate to the 1960 Democratic Convention. And I used to be a trial lawyer, specializing in medical jurisprudence, and I am an Episcopalian. After this warmup I am going to proceed on a very empathetic level with you.

Let's talk about your days as a trial lawyer. And I feel confident you were a darn good one. When you had before you in the jury trial you were conducting, a medical question, you didn't supinely accept the word of the physician on the other side; you made yourself, on that particular narrow little branch of medical jurisprudence, as nearly a knowledgeable medical expert as you could, didn't you?

Mr. LUCE. Yes.

Mr. REUSS. I am sure you did, because that is what a good lawyer has to do.

Mr. LUCE. Yes; in order to conduct cross-examination, you have to.

Mr. REUSS. If you were today conducting a lawsuit in which the issue was the validity or the frivolousness and inutility of the MMPI, and its 563 questions, if, for example, the issue was whether someone fired on the basis of such a test, was validly fired, you would not content yourself with saying the Episcopalians and Puget Sound Power & Light do this, would you?

Mr. LUCE. No; I would seek competent medical advice, to tell me whether they thought that test was a good one.

Mr. REUSS. Then armed with that, would you not undertake a rigorous 2 hours, at least, examination of the learned doctor whom the other side presented as an expert witness in favor of the MMPI test?

Mr. LUCE. Well, it would depend on the advice I got from the psychiatrist that I questioned. If he told me it was a good test, if I couldn't find a psychiatrist who would say it was not a good test, I couldn't very well defend my man.

Mr. REUSS. Let's stop right here. Are you suggesting that in your trial lawyer days that you didn't use your own independent judgment and gumption on what was the truth of the medical matter? And that if you couldn't find a medical man on your side, that you then forwent the right of cross-examination and confessed judgment against your client? I am sure you didn't do that.

Mr. LUCE. If I couldn't find a doctor, a reputable doctor, who would advise me that the doctor on the other side was wrong, then there was nothing I could do about it. I couldn't get on the stand and testify.

Mr. REUSS. But couldn't you, by your cross-examination, satisfy yourself as to where the truth probably lay?

Mr. LUCE. You are asking me about trial techniques. Frankly, I tried to satisfy myself on a medical question by going to doctors in whom I had great confidence and putting the question to them. Now, if they said to me you are wrong, you are up the wrong trail, I would maybe go to another doctor. But there might come a point where I would say, "Well, I guess maybe I am up the wrong trail."

Mr. REUSS. Didn't you ever have in your practice, as I surely did in mine, cases where, as it turned out, a lot of learned doctors were wrong, and hadn't sufficiently researched the matter, and where you, by perspicacity and dogged pursuit of the matter found out something about this occult medical matter that a lot of the medical men didn't know? Didn't you ever have that experience?

Mr. LUCE. I think I was dogged and I hope I was perspicacious, but I don't recall any instance in which I uncovered a medical truth that I hadn't first learned from a doctor.

Mr. REUSS. Well you missed a very rewarding part of law practice.

Let's get back to this hypothetical lawsuit. Don't you think that even without consulting with all of the psychologists you could find, that it would be a useful thing, on such an occasion, if you put the proponents of the MMPI test through the hoops on this, to find out precisely when these original tests had been conducted, in what mental institutions in Minnesota, who had conducted them, what outside controls they used, the makeup of these other people, both religious, racial, geographically, every other way? Wouldn't it have been interesting to inquire into who it was who set up the norms for this, who decided what were the normal people and how did they determine this, and who decided who were the people who had these 16 good qualities, the absence of which makes one flunk the MMPI test? And couldn't you, even without consulting any psychologist, but based on your natural inquisitiveness, ask a good many questions which would help you in your judgment as to whether this is really a valid or a frivolous and pseudoscientific test?

I am not trying to be disagreeable. I am talking to you as a fellow trial lawyer.

Mr. LUCE. I think you have asked a fair question.

I inquired of psychologists, people who were experts in the field, as to the validity of these tests. They told me that in their judgment the tests were helpful. And I, at this point, felt I had made a reasonable inquiry.

Now as to this Minnesota test we are talking about. The consulting firm we now retain has used it only twice in their testing of our employees, both times after it used one of the others. The one they usually use is the Guilford-Zimmerman test. And in one instance in which it was used, and I can't disclose the name, this Minnesota test saved the man's job. It didn't cost him his job. One of the questions you put to me asked what if we had a man fired because of this test. We saved a man's job.

Mr. REUSS. Well, either way, isn't the process of cross-examining, getting to the bottom of something, and the idea that a trained generalist, like yourself, is perfectly capable of making an independent judgment and doesn't have to rely entirely on the judgment of the so-called professionals, many of whom, as there was testified yesterday, may have an ax to grind because they may be making their living selling these psychological tests?

Wouldn't this seem to you a useful procedure?

Mr. LUCE. Well, it would seem that anyone in the position of having an agency should make a reasonable inquiry to determine for himself that these tests have validity.

I think I made a reasonable inquiry. Your question suggests I should have made a more detailed inquiry.

Mr. REUSS. I am not trying to rake up the past. But since you have before you the task of going before the Civil Service Commission and justifying what you are doing—and let me say parenthetically that perhaps unlike some of my colleagues here, I think you have presented a thoughtful piece of testimony here this afternoon—since you have to go before the Civil Service Commission, wouldn't it be an extraordinarily useful thing if you could spend some hours on making an independent inquiry in which you put your own good mind on the question of whether these tests are really efficacious for their purpose, sufficient to justify the admitted hazards, if they are misapplied, and I am not suggesting Bonneville has misapplied them.

Wouldn't this be a worthy use of some of your time?

Mr. LUCE. The more I know about my case, the better case can be made, the better judgment, the more accurate and more reasonable judgment can be arrived at. I really haven't thought out whether I will make some further inquiries of other psychologists or of anyone else about these particular tests. But I may do that if I think it is necessary.

Mr. REUSS. I would hope that in addition to inquiring among a broad spectrum of psychologists, you would put your own mind on it because I would hate to come to the conclusion that this subject was so occult that an intelligent and industrious administrator like yourself is incapable of grasping whether it is valid or not.

And indeed, I think one of the troubles of the last 25 years has been that everyone has been too ready to accept the fact that somebody else is using it.

For example, when I go to my fellow Episcopalians in a few days and say "Brethren, are we right in using this test?" they will say "Of course we are. Bonneville is using it." And so the picture goes.

Thank you, Mr. Chairman.

Mr. GALLAGHER. In fact, along the lines of suggested reading that Mr. Reuss has pointed out, it might well be in order if you saw fit to do this, before Mr. Rosenthal's law becomes effective, to read some of the writings of Mr. George K. Bennett, Ph. D., a psychologist, president of the Psychological Corp., which sells these tests. (See p. 65, *supra*.)

Mr. Bennett stated, and I quote:

Over the past 40 years a great number of self-descriptive inventories have been conducted and tried out. This reviewer is unable to recall a well-established instance of useful validity for a class of questionnaires against a criterion of occupational success.

Now, this is one of the great authorities in this field of psychology and he doesn't have as much confidence in it as you do, Mr. Luce. That might be a good starting point.

The Chair would like to suggest, before any further use is made of the tests, that the entire program be submitted to Mr. Macy to see whether or not your views do hold water in light of the new policy.

Mr. LUCE. We have assured the committee we will do that.

Mr. HORTON. Mr. Chairman, I want to ask another question.

With regard to your opinion with regard to the invasion of the right of privacy of the employee, we have picked out in some of these tests some of the more exciting, if you will, questions. But you made reference to the Guilford-Zimmerman Temperament Survey and said the psychological services use this.

Mr. LUCE. That is their basic personality test; yes.

Mr. HORTON. I would like to pick out a few questions, and I will go down the line, 1 through 10 or 11, and ask you, as I read these questions off, to ask yourself whether or not these questions don't invade the privacy of an individual to a degree beyond which we should really go.

Now, I think they do, because they ask a variety of questions. They go to a variety of subjects and emotions of the individual. It doesn't seem to me they should be subjected to even this type of questioning:

"1. Do you start to work on a new project with a great deal of enthusiasm?

"2. You would rather plan an activity than take part in it.

"3. You have more than once taken the lead in organizing a project or a group of some kind.

"4. You like to entertain guests." And there is nothing wrong or immoral—I mean this has to do with a personal like or dislike.

"5. Your interests change quickly from one thing to another.

"6. When you eat a meal with others, you are usually one of the last to finish.

"7. You believe in the idea that we should eat, drink, and be merry, for tomorrow we die.

"8. When you find that something you have bought is defective, you hesitate to demand an exchange or refund.

"9. You find it easy to make new acquaintances.

"10. You are sometimes bubbling over with energy and sometimes very sluggish.

"11. You are happiest when you get involved in some project that calls for rapid action.

"12. Other people shy of you as being very serious minded.

"13. In being thrown by chance with a stranger, you wait for him to introduce himself.

"14. You like to take part in many social activities.

"15. You sometimes feel just miserable for no good reason at all."

Now aren't these asking a series of questions that have to do with a person's personal and private rights that should not, even for the purpose of promotion, be invaded?

Mr. LUCE. I would have to answer as I did before, that as we administer the tests, I think these are proper questions to ask of employees applying for key positions, where their personality traits may have an important bearing on the way they perform the job.

As to most of those particular questions, even I as a layman in this field, would think I could see the relevancy of them to the personal qualifications of a man for a certain type of job.

If you are an outgoing fellow, for example, you might do better as a supervisor than—

Mr. HORTON. I don't mean to have you draw conclusions from these. All I am pointing out is they are asking a whole series—and that is just the first 15—a whole series of questions about personal life, that it seems to me an employee should not be subjected to.

Mr. GALLAGHER. Mr. Romney?

Mr. ROMNEY. Mr. Luce, there are three other power agencies, electric power agencies in the Department of Interior, besides Bonneville Power Administration, are there not?

Mr. LUCE. Yes.

Mr. ROMNEY. The Bureau of Reclamation, Southeastern Power Administration, and Southwestern Power Administration. We are informed that none of these agencies uses personality testing.

Does this correspond with your understanding?

Mr. LUCE. Yes; I think we are the only agency in the Interior Department that has tried this.

Mr. ROMNEY. But they do have some comparable operating responsibilities to yours?

Mr. LUCE. Not on nearly as large a scale, but comparable; yes.

Mr. ROMNEY. Now, the Tennessee Valley Authority, on the other hand, would be on a scale comparable or even greater than yours?

Mr. LUCE. Yes; their installed capacity, if you add in the steam-plants, is even greater than ours.

Mr. ROMNEY. For the record, I might say their installed capacity as of February 25, 1965, was 14.6 million kilowatts.

Mr. LUCE. About twice ours. They have half our hydro capacity, and the rest is steam.

Mr. ROMNEY. We are advised TVA does not use these tests and some time ago the question came up as to whether they might be used, and the suggestion was disapproved.

I merely wanted to make this point to indicate that there is nothing unique about the Bonneville Power Administration, per se.

One other question to just clear up a point, Mr. Luce: You referred to Mr. Macy's reference to an air traffic controller as the kind of responsible position which must be very carefully filled.

Mr. LUCE. In which this testing might be proper; yes.

Mr. ROMNEY. This is the point I make. Did you intend to make the point that Mr. Macy was suggesting, that this type of personality test about which we are talking would be in order for a position such as an air traffic controller?

Mr. LUCE. I just read his testimony. I wasn't at the hearing. I don't think he was talking about a particular test, Mr. Romney, but rather personality-type testing in general, and using a tested and reliable test. I understood his testimony to say he thought this would be proper for that kind of position.

Mr. ROMNEY. Well, I think just for the record I should read what he said. After referring to air traffic controllers as responsible positions, he simply says, "There are a few positions for which psychiatric evaluation is a regular part of the medical examination." And then he goes on to say that these examinations should be conducted by

qualified specialists, with full consideration of the rights of the individual, as well as the needs of the Federal service, and specify diagnostic methods used in such examinations are properly determined by the medical specialist.

My reading of his statement is not that he is suggesting that tests of the kind they have in effect prohibited in their policy statement would be in order for a position of this type.

Mr. LUCE. When we submit our tests, we will have the definitive answer to that question.

Mr. GALLAGHER. It is the understanding of the Chair that while a psychiatric evaluation might be necessary for an air traffic controller, Mr. Macy's testimony and the policy that he laid down was quite definite, in that personality tests would be prohibited in the U.S. civil service.

We will be interested to see the ruling on your request.

Thank you very much, Mr. Luce.

Mr. LUCE. Thank you, Mr. Chairman.

(The following exchange of letters between the chairman of the special inquiry and the Department of the Interior took place later:)

JUNE 28, 1965.

HON. STEWART L. UDALL,
*Secretary of the Interior,
Department of the Interior,
Washington, D.C.*

DEAR MR. SECRETARY: This is in reference to the recently discontinued psychological testing program of the Bonneville Power Administration. The personality test aspect of the program was discussed in detail by the Administrator on June 4, 1965, before the special inquiry of the House Government Operations Committee.

The Administrator testified that BPA had spent approximately \$15,000 for the testing service. Two consulting firms were used initially. Subsequently, one was dropped. As described by the Administrator, the procedure was for BPA to furnish to the firm a job definition and qualification statement. The firm then "tailor made" tests for each position. Before the test, the employee was interviewed by the firm. Following the test, he was again interviewed by the firm. After that BPA received from the firm an appraisal of the employee, containing a personal history, a psychological description, and a statement of his potential for development including recommendations. BPA's selection officer used the appraisal along with other pertinent information to make his selection. The BPA did not receive or see the specific test results of any individual employee.

On June 3, 1964, the Chairman of the U.S. Civil Service Commission announced before our panel his agency's broadened policy on personality tests, part of which we quote:

"* * * the Commission does not itself use and prohibits agencies from using personality tests as such in any personnel action affecting employees or positions in the competitive service. This does not, of course, relate to the proper use of such tests by a qualified psychiatrist or psychologist when, in his professional judgment, they would assist in his total study of an individual in connection with medical determinations for employment or fitness for duty.

"The above policy restricts the use of current personality test methods intended to gage personal characteristics. The Commission will consider proposals for the use of a particular personality test only when it has been shown by systematic research to have a direct value in making personnel decisions."

The Administrator advised our panel on June 4 that in compliance with the new Civil Service Commission policy, he was discontinuing the personality tests. He declared, however, that he proposed to submit through departmental channels a request that the Commission consider for approval BPA's personality testing program. He added that he would request the consulting firm to furnish the research backing up the preparation of the test questions and the analysis system used.

It seems to us there are several reasons why further personality testing by or on behalf of agencies within the Department should be a matter of high-level concern and one for which there should be a carefully determined departmental policy:

1. The Civil Service Commission has clearly and positively rejected personality testing within the competitive service, with limited exceptions.

2. (a) The BPA has no monopoly among Government agencies on positions which impose special demands of judgment, alertness, discipline, or responsibility. Sound personality evaluation is as much a prerequisite to filling these positions as to filling BPA's "key" positions. (The Tennessee Valley Authority, for instance, has electric power functions even more extensive than the BPA, but does not use personality tests.)

(b) The Administrator testified about the problem of selecting for key positions in BPA involving "stress situations" where a mistake could cause loss of life and property. (See attached list furnished by the Administrator of "Positions Filled Using Test Augmentation of Evaluation Factors".) He likened this to selecting for such positions as an air traffic controller, to which the Chairman of the Civil Service Commission made an illustrative reference before our panel. However, the Administrator did not associate such testing with being a part of a medical examination, whereas the Civil Service Commission policy limits use of available personality tests to assisting in the "total study of an individual in connection with medical determinations for employment or fitness for duty."

3. The Government has long been guided by a general policy rule that purely personal services may not be obtained on a contractual basis but should be performed by a regular employee responsible to the Government and subject to its supervision. Exceptions are, of course, recognized by the Comptroller General in a number of circumstances. We take no position as to whether the regular use of a consulting firm as in BPA's testing program would come within this general rule. We do suggest, however, that this point should be examined as a matter of departmental concern.

4. An agency's practices and policies regarding personality tests might tend to influence agency contractors as to use of personality tests for contractor personnel or job applicants, particularly as this testing might relate to contract operations.

In view of the foregoing, we would appreciate your advising us promptly on the following points:

(1) The Department's policy in relation to (a) seeking Civil Service Commission approval of further personality testing and (b) contract terms relating to Government contractor's use of personality tests.

(2) Any instances of contracts entered into by BPA in which there is provision relating to personality testing of personnel or job applicants of the contractor, plus estimates of the numbers involved in such testing and the cost.

(3) The extent to which the cost of the consulting firm's assembly of supporting research to justify BPA's request for further testing would be borne by the Government.

Sincerely yours,

CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy.

(The list furnished by the Administrator entitled "Positions Filled Using Test Augmentation of Evaluation Factors," appears on p. 206.)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 2, 1965.

HON. CORNELIUS E. GALLAGHER,
*Chairman, Special Government Operations Subcommittee,
Committee on Government Operations,
House of Representatives, Washington, D.C.*

DEAR MR. GALLAGHER: This is in further reply to your letter of June 28, 1965, concerning personality testing.

Your first question asks what is the Department's policy in relation to (a) seeking Civil Service Commission approval of further personality testing and (b) contract terms relating to Government contractor's use of personality tests.

Since the Commission has prohibited agencies from using personality tests, as such, in any personnel action affecting employees or positions in the competitive

service (which we administratively are extending to the Department's employees and positions in the excepted service), the Department has no present intention of requesting authority from the Commission for the use of personality tests, and no such request will be made unless and until the Commission adopts a Government-wide policy authorizing the use of such tests. As to the second part of this question, pending the adoption of such a Government-wide policy by the Civil Service Commission, no further contracts will be made with private firms for the use of personality tests in connection with applicants for our jobs or employees on our rolls, nor will there be any requirement in any contract with this Department or any of its bureaus or offices that such tests be administered to or used in connection with the employment or assignment of the contractor's employees.

Your second question asks whether there are any instances of contracts entered into by the Bonneville Power Administration in which there is provision relating to personality testing of personnel or job applicants of the contractor, plus estimates of the numbers involved in such testing and the cost. There are no contractual commitments or agreements within this Department containing any provisions relating to personality tests or requiring that contractors test their personnel prior to assigning them to work on matters of interest to the Department.

Your last question asks the extent to which the cost of the consulting firm's assembly of supporting research to justify the Bonneville Power Administration's request for further testing would be borne by the Government. In conformance with our position stated above, the Department will undertake no research, either on its own or through any private firms in the area of personality tests, and will not request any private firm to undertake such research. Hence, if any such assembly of supporting research mentioned in your question is undertaken, it will not be at the request of this Department and the costs will not be borne by this Department.

The positions stated herein are being transmitted to our bureaus and offices for compliance and implementation. I can assure you that the matter of using personality tests within the Department will depend upon whether or not the Civil Service Commission prescribes Government-wide standards and guidelines for use throughout the executive branch. I appreciate your summarizing the reasons for the importance of our concern in this matter and recognize the validity of the points made in your letter.

Sincerely yours,

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

Mr. GALLAGHER. The Chair would like to call Mr. Kingston Berlew, Acting Associate Director for Peace Corps Volunteers; Dr. Abraham Carp, Director of Selection of the Peace Corps; and William Josephson, General Counsel of the Peace Corps.

**TESTIMONY OF F. KINGSTON BERLEW, ACTING ASSOCIATE
DIRECTOR FOR PEACE CORPS VOLUNTEERS; ACCOMPANIED
BY DR. ABRAHAM CARP, DIRECTOR OF SELECTION; AND
WILLIAM JOSEPHSON, GENERAL COUNSEL**

Mr. GALLAGHER. The subcommittee welcomes you, gentlemen. Before we proceed, may we ask you to be sworn.

(Whereupon the three witnesses were sworn.)

Mr. GALLAGHER. If you would like to summarize your statement, you may, or go ahead with the prepared statement, whichever you wish.

Mr. BERLEW. Mr. Chairman, members of the committee, first I would like to say Mr. Shriver regrets he was unable to be here this afternoon. He had a previous commitment to make a commencement address at a college in New York and felt he should keep that commitment.

As you know, before the Peace Corps was invited to appear before this special inquiry, the Constitutional Rights Subcommittee of the

Senate Judiciary Committee invited the Peace Corps to testify before it on this subject on June 9.

Mr. Shriver has prepared and submitted to that subcommittee a statement of his own. I would like to read the substance of that statement and add to it a few brief personal remarks of my own.

In 1961, President Kennedy assured the Congress that Peace Corps applicants "will be carefully screened to make sure that those who are selected can contribute to Peace Corps programs, and have the personal qualities which will enable them to represent the United States abroad with honor and dignity."

In our opinion the single most critical issue which confronted the Congress in considering the Peace Corps Act in 1961 was whether or not the Peace Corps would be able to select the right people to be Peace Corps volunteers. Had there been any substantial question as to the Peace Corps ability to do this, we doubt if the Peace Corps Act would have been passed.

Before we asked Dr. Nicholas Hobbs to be the Peace Corps' first Director of Selection, we asked many selection experts for recommendations. Dr. Hobbs was then and is now chairman of the Human Development Division of the George Peabody College for Teachers in Nashville, Tenn. Previously, he had been head of the department of psychology at Louisiana State. During World War II, he was the Air Force Director of Research in the selection and training of aviation cadets and gunners. Nick is now the American Psychological Association's president-elect.

Dr. Hobbs gathered an outstanding group of experts in selection. They developed a comprehensive selection process. It includes references, aptitude, and intelligence tests, evaluations from instructors during the 10-to-12-week-long Peace Corps training program, the opinions of host country nationals participating in the training program, peer ratings, health examinations, observations and interviews by qualified and experienced psychologists, performance in the various components of training including technical skills, language achievement and physical education, psychiatric interviews when indicated, and review of a full field investigation conducted by the Civil Service Commission or in some cases the Federal Bureau of Investigation.

No one element of this process is determinative. No one element makes the same contribution as another. But each makes a definite and distinctive contribution to the process.

A selection board meets once during and once at the end of training to weigh all the available evidence about each applicant. It is chaired by a highly qualified and experienced psychologist employed by the Peace Corps. We call him the field selection officer. On the board sit the training program director, the training program psychologist, resource persons representing the various components of training, the Peace Corps representative from the country for which the volunteers are being trained, and others. The decision to enroll or not to enroll an applicant is made by the field selection officer. But it is a product of the board's deliberations.

Dr. Hobbs was succeeded as Director of Selection by Dr. E. Lowell Kelly, a former president of the American Psychological Association. Lowell was and is chairman of the Department of Psychology at the University of Michigan.

Dr. Edwin R. Henry succeeded Dr. Kelly in January 1963. Ed was and is manager of the Social Science Research Division of Standard Oil Co. (New Jersey). During World War II he was Chief of the Personnel Research Branch of the Army Adjutant General's staff.

Dr. Henry was succeeded last fall by Dr. Al Carp. Dr. Carp was Technical Director of the Personnel Research Laboratory, Aerospace Medical Division, Air Force Systems Command. He was one of those who worked out the selection process for screening space program applicants and determining those best qualified to be astronauts.

The Peace Corps selection process, in our opinion, has worked. On a completed project basis, only 7.9 percent of our applicants have failed to complete their service for reasons related to "personal adjustment."

Fewer than seven-tenths of 1 percent have returned because of psychiatric difficulties.

Moreover, every foreign country to which Peace Corps volunteers are now assigned wants more volunteers. And I might add many other countries have requested volunteers for which we have not been able to meet the request.

Last year about 46,000 Americans volunteered to join the Peace Corps. This year about the same number will volunteer.

If host countries thought Peace Corps volunteers were not effective, I doubt if they would ask for more and use their own scarce resources to bear a portion of the program's cost.

If the American people thought poorly of those serving in the Peace Corps, the Peace Corps would not enjoy their support and the support of Congress, the President, the Secretary of State, and the American Ambassadors to the countries in which Peace Corps volunteers serve. Nor would 46,000 people each year volunteer to serve in the Peace Corps.

I was the Peace Corps Director in Pakistan for 2 years prior to assuming my present job. I took that responsibility. I believe, quite seriously, just as you take yours seriously. I have some familiarity and understanding of the nature of the Peace Corps assignments, and the frustrations and unusual stresses which Peace Corps volunteers are called upon to meet.

I think I am also personally familiar with and concerned about what happens to persons, including Peace Corps volunteers, who are not capable of coping with these situations and these stresses.

In my present capacity I feel a very strong obligation and responsibility to take every reasonable measure to minimize the number of individuals who would be so affected. All of us, I think, in the Peace Corps feel that same responsibility.

Dr. Carp, the Director of our Selection Division, is here to testify with regard to the use of personality inventory tests and their value in this type of problem.

Mr. GALLAGHER. Thank you very much, Mr. Berlew. Dr. Carp, would you like to make a statement?

Dr. CARP. Yes, sir. I think the point that is made in my prepared statement is that, first of all, the Peace Corps was charged by Congress, in enacting the Peace Corps Act, to make every effort to insure that only individuals of emotional maturity and sound mental health be sent overseas. In implementing this directive from Congress, as

was indicated in Sargent Shriver's prepared statement, the Peace Corps took advantage of expert recommendations from the field of psychology and psychiatry, the disciplines most experienced, I believe, in evaluating emotional maturity and mental health. As one part of the overall evaluation process it was determined, it was decided that personality inventories could play a limited but significant contribution to this overall evaluation. It was recognized that in some respects taking these kinds of tests are uncomfortable and are not pleasant. However, it was felt and we still feel that the benefits derived from the proper use of these instruments certainly justify the discomfort to the individual. And I think the proof, in a sense, of our use of these tests is that in fact we do have what I think is a very successful selection process. Less than 1 percent of the volunteers who go overseas have returned for psychiatric reasons. This is a remarkable record. I would not maintain that this is due solely to the use of psychological inventories or any one psychological test. But I think it is due to the sincere, conscientious, dedicated individuals and processes which we have set up, to which psychological testing does indeed contribute.

Thank you.

Mr. GALLAGHER. Mr. Josephson?

Mr. JOSEPHSON. Mr. Chairman, I would only request that Dr. Carp's statement be put in the record in its entirety.

Mr. GALLAGHER. Yes, without objection it is so ordered.

(The prepared text follows:)

STATEMENT OF DR. ABRAHAM CARP, DIRECTOR OF SELECTION OF THE PEACE CORPS

Mr. Chairman, in 1961 the Congress made clear, in the Peace Corps Act, its concern with the qualifications of Peace Corps volunteers. It directed that the Peace Corps make available to interested countries "men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary." The President was authorized to enroll in the Peace Corps only "qualified citizens and nationals of the United States."

In 1961 both the Senate and House Peace Corps bill reports specified that Peace Corps volunteers should be "emotionally mature" and "in excellent * * * mental health."

This concern is understandable. A Peace Corps volunteer does not live the life of the typical U.S. Government employee overseas. He must demonstrate his technical competence in what is often a technically primitive environment. Often he must communicate in a new and difficult language. He must live with and work for people whose background, culture, and way of life contrast dramatically with that to which he has been accustomed. Through all this, he must maintain his own physical and psychological well-being in essential isolation from his own culture.

An emotionally immature and mentally unstable volunteer could do serious damage to the United States and the Peace Corps overseas.

But not only the United States' and the Peace Corps' interests are at stake. The individual volunteer has an obvious stake in his mental health. If the Peace Corps sent overseas a volunteer who was not qualified in this regard, it could be responsible for seriously and even permanently damaging his mental health.

Mr. Shriver has already described generally the Peace Corps' selection process. Let me turn to the use of personality inventories.

The selection of people is a young science. No one selection tool even begins to approach perfection. That is why Peace Corps' selection is deliberately structured to bring to bear many different selection tools. As Mr. Shriver says in his statement, no one element of this process is determinative but each makes a definite and distinctive contribution to the process.

In our judgment, the Peace Corps would be derelict in its responsibilities if its selection process deliberately failed to employ any one element of that process, including personality inventories properly used by qualified persons. Indeed, in

1961 the House Foreign Affairs Committee specified that during Peace Corps training each applicant will receive "psychological and psychiatric tests." (See p. 267.)

Each Peace Corps training contract requires the training institution, usually an American college or university, to appoint at least one experienced and qualified psychologist to be what we call a field assessment officer. He is responsible for gathering psychological data throughout training. The only personality inventory he is asked to give all trainees is the Minnesota Multiphasic Personality Inventory, although the field assessment officer may decide in consultation with the Peace Corps' field selection officer to give either generally or individually other personality inventories.

In our judgment the MMPI is the only objective personality inventory which helps identify persons who may have or develop serious personality disorders. It has been extensively used for more than 20 years. More data has been accumulated about it than any other similar inventory, and much of it is relevant to the Peace Corps' selection process.

The MMPI consists of 566 statements which the trainee is asked to designate as true or false as he thinks they apply to him. His responses are then distributed among 14 different scales. The score the applicant makes on each scale is then compared with the scores made by persons who are known to have personality disorders.

In my opinion, a good alternative to use of the MMPI does not now exist. Many persons who have potentially serious personality disorders are readily identifiable. Many are not. It is of critical importance that the Peace Corps' selection process make the best effort possible to identify those who are not readily identifiable.

Clinically, potentially serious personality disorders are identified through individual psychiatric interviews. But it is simply not humanly possible to have a qualified psychiatrist interview each of the approximately 10,000 persons who enter Peace Corps training each year. There are not enough psychiatrists, and since most of the interviews would be routine, individual psychiatric interviews would waste scarce professional resources.

The MMPI represents an effort to recreate objectively a psychiatric interview, and the Peace Corps has substantial evidence in the form of case studies that the MMPI makes a definite contribution to Peace Corps selection. In other words, if the Peace Corps did not use the MMPI, more volunteers sent overseas would fail to complete their Peace Corps service for psychiatric reasons. This would not be in either the United States' or the Peace Corps' interest or, perhaps most important, in those volunteers' own interest.

The MMPI contributes to selection-in decisions as well as to selection-out. A normal MMPI profile can help counterbalance negative data from other elements of the selection process. Moreover, trainees with abnormal MMPI profiles are not automatically selected out. Special attention is paid to them. As a result more data accumulates about them than usually accumulates about a trainee. This has resulted in selection-in decisions notwithstanding the abnormal MMPI profile.

Many MMPI items relate to attitudes toward sex, one's body, religion, one's parents and other personal matters. This is because, as most of us know from common experience, personality disorders often express themselves in relation to these matters. What is significant is not an individual's particular responses but whether or not his aggregate score on the MMPI's scales is similar to that of persons with serious personality disorders.

Because the MMPI involves personal matters it is only given by the field assessment officer. He as we have seen is always a qualified and experienced psychologist. He is trained to respect the confidentiality of an individual's MMPI profile.

Only two other persons have access to that profile, the Peace Corps' field selection officer, who is also a highly qualified and experienced psychologist, and if the profile suggests that a psychiatric interview is warranted, a medical doctor trained in psychiatry.

After the end of the training program all MMPI and any other personality inventory data will be destroyed. Our inquiry into the use of personality inventories during Peace Corps training has indicated that the Peace Corps has not had a consistent policy on this in the past. This was a serious error, and I assure you it has been corrected.

I would like to draw an analogy here between the Peace Corps' selection process as it relates to emotional maturity and mental health and a comprehensive health examination. The Peace Corps is obviously equally interested in an

applicant's mental and physical health. Properly evaluating either requires a highly professional examination. In both cases failure to conduct the examination runs the risk of serious harm to the United States, to Peace Corps, and to the applicant. But certain aspects of both kinds of examinations are quite personal, and as many of us know, some are not only personal but unpleasant as well. This does not mean that these examinations should not be given. But this does mean that they should only be given by qualified and experienced professionals who are trained to respect the individual's privacy.

Mr. GALLAGHER. We welcome you here today. Since you have given your credentials on the Peace Corps, we might as well give ours. One of the original ideas for formation of the Peace Corps came from our distinguished colleague, Mr. Reuss. I introduced the original proposal of creating the Peace Corps. I acted as one of the floor managers for the bill, long before it became fashionable to support the Peace Corps. So all of the Members up here are in complete agreement that the Peace Corps has been an outstanding success. With that having been said, let's get to the point of whether or not these tests are in fact a violation of the privacy of the individuals who must take them. Or perhaps I am on dangerous ground by saying "must take the test," because there is always the out that they may volunteer to take these tests, but they may volunteer themselves out of the program, too, if this testing pattern follows the other testing patterns.

Do you feel there is no violation of privacy in these tests, or of the constitutional rights of the people involved?

Mr. BERLEW. That is our position, Mr. Chairman, on the advice of our General Counsel.

Mr. ROSENTHAL. Mr. Chairman, will you yield for a moment?

Mr. GALLAGHER. Yes.

Mr. ROSENTHAL. I think perhaps at this hour we might zero in. Dr. Carp is the first witness we have had who would seem to me well qualified to offer rebuttal to the attack that has been made on the MMPI by other witnesses so far, and I would appreciate a 10 or 15 minute summary on his views as to the validity of the test, its usefulness and in what way there is no violation of the right of privacy, if that is all right.

Mr. GALLAGHER. Yes.

Mr. ROSENTHAL. I feel I need it badly at this point, and I think Dr. Carp is qualified to give it to us on a reasonable basis.

Dr. CARP. With only one reservation: I don't consider myself an expert on the invasion of privacy problem, and perhaps our general counsel, Mr. Josephson, might comment on that aspect of it. But I would certainly be willing to discuss or to talk briefly on the use which the Peace Corps makes of the MMPI, the role it plays, the evidence we have for its validity and usefulness.

Mr. ROSENTHAL. And your knowledge as to its origination and the circumstances under which it originated.

Mr. HORTON. I think, if you will yield, aren't you asking the witness as an expert to talk about the test itself, and to justify the test and what it does, and the validity of the test?

Mr. ROSENTHAL. As an opening point for further inquiry.

Mr. GALLAGHER. We took testimony yesterday, and I will state two quotes which disturbed this subcommittee.

One is from Dr. John Dollard, professor of psychology at Yale University. He, in considering the question of these tests, states,

and I quote, "There may be exceptions unknown to me, but generally speaking, projective tests, trait scales, inventories, or depth interviews, are not proved to be useful in selecting executives or salesmen or potential delinquent or superior college students."

And I quote Dr. Bennett again, president of the Psychological Corp., a well-known authority, "Over the past 40 years a great number of self-descriptive inventories have been constructed and tried out. This reviewer is unable to recall a well-established instance of useful validity for a class of questionnaire against a criterion of occupational success."

If we could start at that point, and if you could dispute that or lend validity or disturb the credibility, you would serve a great purpose here.

Dr. CARP. I don't know if it is ethical, but perhaps the best way I could refute at least part of it is by reading another statement by Dr. Bennett, if this is permissible.

This is a somewhat more recent statement.

Mr. REUSS. To refresh my recollection, who is Dr. Bennett again?

Mr. GALLAGHER. Dr. Bennett is the president of the Psychological Corp. He is a Ph. D., president of the corporation that puts out these tests.

Mr. REUSS. Is that a profit or nonprofit group?

Mr. GALLAGHER. It is a profit corporation, many psychologists own shares in it, and so he would be a witness, you would think that would be in favor of the tests, and yet this is his statement.

I might say, Dr. Carp, do you own shares in this corporation?

Dr. CARP. I am happy to say, sir, that I do not.

Mr. GALLAGHER. Fine.

Mr. ROSENTHAL. You are happy because it permits you objectivity, or are you happy because their financial success has not lived up to promise?

Dr. CARP. I am happy because it permits objectivity. I have no knowledge of its financial success. But I think they are doing very well.

Mr. GALLAGHER. Yes, it is a tremendous financial success.

Mr. ROSENTHAL. We are beginning to suspect that.

Mr. GALLAGHER. Proceed, please.

Dr. CARP. This is a statement from Dr. Bennett. He says, reading in part—

Mr. JOSEPHSON. Excuse me. I think this statement should be identified. It is a statement which Dr. Bennett has prepared for the other body's subcommittee. I do not know whether or not he has been invited to testify before this inquiry.

Mr. GALLAGHER. We would welcome his statement or his testimony. In fact, we were trying to determine who could best state the position of the industry, or profession.

Mr. REUSS. Apparently you can get a witness on both sides for the price of one.

Dr. CARP. I think essentially Dr. Bennett's statement is:

I do state that I do not believe any accepted test or inventory properly administered by responsible persons invades traditional personal rights. For these reasons, in the context of such testing, the question whether public employment is or is not a right or a privilege is irrelevant.

I take now the Minnesota Multiphasic Personality Inventory to illustrate my thesis: This technique is really, as its name implies, an inventory, not a test,

though in the nature of the device no answers are "correct" or "incorrect", as we shall see.

Then:

The MMPI was developed at the University of Minnesota to assist in the classification of persons to whom various labels were attached denoting degree of psychological or emotional instability. The test consists of 566 questions to which answers given by a cross section of people present a different profile from those obtained from people who are believed to be emotionally unstable or potentially so. In fact, the test was developed by careful observation and experiment with the use of many more questions, including the 566, on 2 distinct groups of people at the University of Minnesota Hospital. One group comprised visitors to the hospital—presumably a cross section of the population—and the other consisted of patients who were being treated after diagnosis for certain emotional or mental disorders.

No one contends that every question in the MMPI is critical nor that better questions may not be developed. However, the 566 questions have proved satisfactory in practice, have been the subject of a great quantum of data and experience, and could be rephrased or replaced only at great cost and without assurance that the end product would be so successful a tool.

The answer one gives to one question—indeed, the answers to dozens of questions on the MMPI—are not critical in the evaluation of personality. Indeed, no answer is "correct" or "incorrect." Experience alone shows that certain constellations of answers are given by people possessing certain characteristics. People of similar characteristics, however, may answer many questions quite differently—so nothing is necessarily determined by isolated answers. The test is valid because experience validates it, though no answer is itself valid. For those reasons, the persons who evaluate or score the MMPI couldn't care less about what answer is given to a particular question. Such information is absolutely meaningless whether the question is whether one likes sailing in a boat or whether one wished as a child to be a locomotive engineer.

However, a constellation of certain answers has meaning—not because the developers of the MMPI were supermen but because they were careful empiricists. The test was, in effect, developed by the corollation of replies of a cross section of America with those of a group who were having emotional difficulty. The test therefore was proved before it became a test, and it has been proving itself ever since.

Now I should like to discuss the uses and abuses of tests. The MMPI is not a test to determine who should be employed in a job. No test should be the absolute criterion in such an evaluation. The job of selection for employment still is done best by humans and in my judgment this will always be so. That is not to say that useful psychological and testing tools have not been developed which can and do greatly assist the personnel or selection officer. But the task of selection must be performed by skilled, trained, and conscientious men and women using the best tools available. The MMPI is such a tool. It does not purport to be a test of a person's skills, education, or training. It only seeks to measure emotional components to determine the probable state of emotional equilibrium. Furthermore, the MMPI is not infallible, and its results should never be the sole basis for judgment. However, in those circumstances, now of increasing frequency, in Government and business of placing men and women in stressful jobs, some in faraway lands, it is only fair to the employee and the employer that predictable tragedy, be, if possible, averted.

The Peace Corps has had a remarkable success because it has chosen its volunteers and staff so well. When the agency was established, dire predictions were heard that the Peace Corps would be filled with romanticists, zealots, misfits, and escapees from life at home. The Peace Corps personnel have proved to be remarkably stable—far better able to cope with real austerity and adversity in good cheer than most of us. This is due in no small degree to the training of the volunteer and to the administration of the corps. However, nothing could have compensated for poor selection. The selection procedures have been superb. To a considerable extent the selection has been through the training process itself, which tends to weed out the miscast volunteer. But one must not entirely discount the role of the MMPI which every Peace Corps volunteer receives at the training institution.

I can assure you that the burden of the test is worth it to the Peace Corps applicant, who is saved from the embarrassment and loss of self-esteem from failure abroad after acceptance and goodbys to family and friends.

I think I could add more, but I think you get the gist of Dr. Bennett's remarks with respect to the MMPI and its use by the Peace Corps.

Mr. GALLAGHER. Does he allow for error in this?

Dr. CARP. I am sure he allows for error in it, and the Peace Corps certainly allows for error in it.

Mr. GALLAGHER. It was pointed out yesterday that there was a false positive factor of 11 percent in this area of screening.

Dr. CARP. Well, the Peace Corps' procedures are such to take account of both the problem of the false positive; that is, those individuals who appear to have a deviant profile on the MMPI, and who are not in fact so psychologically deviant that they cannot be sent overseas, and also to help aid the false negatives, of whom there are some, those individuals whose MMPI patterns look perfectly normal, yet who are in fact emotionally disturbed.

The whole training and global assessment procedure, which lasts usually for 3 months, is designed to provide corroborative evidence in support of any hypothesis, based upon the MMPI testing.

The MMPI test is never determinative. The Peace Corps would never consider eliminating an applicant, solely on the basis of his MMPI profile. This is inconceivable, does not happen, and will not happen.

Mr. GALLAGHER. Well, assuming he refused to take it on the ground that it was an invasion of his privacy, or if the false positive factor is similar to the false negative, it is quite conceivable that some 4,600 young Americans have been eliminated as a result of even a minimum false positive factor.

Dr. CARP. No.

Mr. GALLAGHER. Last year 4,600 could have been, if you use the same 10 or 11 percent.

Dr. CARP. No; no one is eliminated on the basis of the MMPI, sir.

Mr. GALLAGHER. Well, no one is ever eliminated. But if they are not selected, therefore they are probably to some extent eliminated. If not, why is it needed at all?

Dr. CARP. One thing I would like to point out, that is the MMPI is not given to all 46,000 individuals who apply to the Peace Corps.

I want to point out the stage at which this is given, because I think it does make a difference. It is only given to those individuals who accept an invitation to a training program and who end up in training.

In this year, for example, there will be about 9,200 people in training. It is only these 9,200 people to whom personality inventories are given, so they are never in a situation where a decision is made merely based upon a test profile or test score.

There is always further followup, further study, further interview, psychiatric evaluation when required, observation in the training program itself, which contributes to the total evaluation of the person.

Mr. GALLAGHER. Would you, as a psychologist, tell us why these tests are needed? What do they do? What is the justification for these tests?

Dr. CARP. We need to investigate and evaluate the emotional maturity and the mental health of these individuals. This is why these inventories are used. I know of no way, really, of evaluating the mental health and emotional maturity, the psychological and psychiatric adjustment, of individuals without investigating some of

the areas which are considered, or would be considered in other circumstances voyeuristic probing, or invasions of privacy, or unwarranted questions. This is why we use this test and why we ask these kinds of questions.

Individuals who are psychiatrically disturbed or emotionally unwell show disturbances in these kinds of areas.

Mr. GALLAGHER. Wouldn't it be possible to arrive at these same conclusions through psychiatric or psychological questioning between a trained person and the individual rather than to have him write down these answers, which become part of his permanent inventory?

I worry about a young man or young girl who answers these questions, and the possibility of them being taken out of context. They could follow them through the rest of their life. At some point along the line, the answers to many of these sex or religious questions might turn up when a person later runs for public office, for example.

This is the thing we worry about, that this is going to be something that could absolutely destroy this person's usefulness, merely because there had to be a written record as to whether or not he believed in the second coming of Christ, or whether or not his sex life was disturbed. There is the potential of danger here, something which could destroy these young people's lives if the answers ever fell into the wrong hands.

Now, do you feel that there is sufficient justification to put as part of a potential permanent record answers such as appear in the Minnesota test?

Dr. CARP. Well, the Peace Corps has taken and is taking even more serious efforts to insure that the kind of thing that you described does not exist. In the past these test protocols, the answer sheets, have not become a part of the individual's permanent record. They have been kept in a confidential folder.

Thanks, really, to being alerted by this committee, we have reviewed our procedures and have realized we can go even further. As of about 2 weeks ago, due to the prompting of this committee, all of these test protocols are being destroyed immediately after they have served their purpose, after the selection process is completed.

They do not become a part of anybody's file or folder. Nobody has access to the answers to individual questions.

It is also true that in our use of the test the individuals interpreting the tests are not concerned, are not interested in and do not study the responses to individual items. And I think you will agree that our procedures are such that there really is no danger of that material becoming a part of a man's permanent record.

Mr. GALLAGHER. Well, the potential for danger exists when a person has to write down answers to such questions because there is always a breach of security at some point in this type of thing. He has to write down his innermost thoughts and the secrets that he keeps locked up in his mind and heart, thus making them available to a government.

We have heard of many breaches of security where these personnel files will follow a person from one agency to another, some of them far more security conscious agencies than the Peace Corps.

Dr. CARP. I think it is extremely important that whatever measures are necessary be set up to insure the security of this kind of information and that it does not in fact become a matter of permanent record.

I do not think the danger of this is so great in fact that it justifies depriving us of what is useful information for the individual's own protection.

Mr. GALLAGHER. Well, again I might make a statement. What we are opposed to, and what we are trying to perhaps resist, is the totally computerized man of the future of 10 years from now and that a young man or young girl, who wants to serve in the Peace Corps, and does such great work and noble work and serves his country and himself, that at some point along the line, all of this goes into the computer, and at some point along the line, someone presses a button and says "This fellow didn't believe in God," or "He did believe in God." We are placing these people in a position of jeopardy. For what you are trying to seek as complete knowledge of a person, at the expense of this man's privacy, does in effect place him in a position of jeopardy at some future point.

Mr. Josephson?

Mr. JOSEPHSON. Thank you, Mr. Chairman. I think I can give you an example that I hope at least will underline the seriousness with which the Peace Corps shares your very serious concern.

The Peace Corps prides itself on the number of former volunteers who have decided to work for the Peace Corps, either in Washington or overseas. Naturally we are concerned to select the best of the former volunteers to spend a temporary tour of duty on our staff. In that process, we do not use the selection file of those volunteers.

Mr. GALLAGHER. Well, I am happy to hear that. The problem is that the danger still exists. Right now there are a lot of nice people in the Peace Corps. That might not always be the case. Therefore, why should it be left up to the hope that they will continue to employ nice people, with those files over there.

Mr. JOSEPHSON. That is why we have a policy of destroying these test protocols. I should also add we do not use computers in the selecting process during training.

Mr. GALLAGHER. This is a new policy you are talking about now, destroying the files?

Mr. JOSEPHSON. This was prompted by the inquiry from this committee. It has been a serious mistake for us not to have had a firm policy on this in the past. We have corrected that, and I am satisfied that the procedures we have instituted will insure that not only existing protocols, but all future ones will be destroyed.

But again I want to reiterate, no computer receives the information which the selection process produces. Computers do not play any role.

Mr. GALLAGHER. I am looking ahead, as the computers jump ahead. I am recalling that the other day in settling a small estate, involving a 3-month-old child, it was necessary first to obtain a social security number for that child, and therefore any banking transactions would have to have his number.

Looking ahead, every individual will have a number. And it may well be, developing this to a finer sense, that when these people take this type of test, the numbers will correspond, and somebody will throw it into the computer, and we will have witnessed the arrival of the completely totalized, computerized, man.

Now what are we doing about this? This is one of the reasons why we are very concerned with the privacy of individuals.

Dr. CARP. Also, I think we should differentiate between the Peace Corps situation and the typical employment situation. All of our literature that we send out to the potential applicant, the potential volunteer, first of all, illustrates what the selection process is.

We do not, although we would have no objection in the future, spell out the MMPI. But we definitely indicate they are going to be tested through psychological means, that they are going to be evaluated for emotional maturity and mental adjustment, that we know all will not get through, and that this is both for their own good and for the good of the country and for the good of the host country overseas. This is an open procedure at all points.

Very early, when the trainees appear at the training site, a representative of the Selection Division appears there and doesn't lecture, but discusses with them the entire selection process, elicits questions, assures them at that time of the complete confidentiality of the information, and assures them of the fact that this test is not really mandatory but that it is useful.

When the test is given, the freedom to not answer any particular item is emphasized.

Mr. ROSENTHAL. If I may interrupt, I still would like to hear some scientific justification for the use of this test. This test has been attacked before the special inquiry, and I am looking to you for the other side of the case.

I am sure the General Counsel and the Associate Director can tell us about the procedures, but I am looking to you for some scientific information and justification and education, as it were, as to why this test is used, why it is necessary.

Mr. GALLAGHER. Dr. Carp, it is getting late, and since this is an area, as Mr. Rosenthal has stated, an area of great interest to us, could you be prepared to do this perhaps on Monday afternoon? Would that meet with your approval?

Dr. CARP. Certainly.

Mr. GALLAGHER. Then we could get into that aspect of it.

The Chair, on behalf of the committee, would like very much to thank you for your appearance here today, and to congratulate you on the protocols that you have changed and the consideration you do give to these idealistically motivated young men and women. We share a concern for their future and I am happy to see we have a concurrence of thought on this.

Mr. REUSS?

Mr. REUSS. Mr. Chairman, I am delighted that Dr. Carp will be able to be with us Monday. Would you request him to bring along the answers to those 566 questions which we have been trying to get, and without those answers before us, I don't frankly see how he is going to explain the nature of the test.

Dr. CARP. Would you let me try, and then if you feel the need——

Mr. REUSS. No, I really want you to bring the answers. Everyone gives us this, listen to the technicians, and puts the answers off. But I really think we are entitled to know whether Lincoln was greater than Washington, or vice versa.

Mr. ROSENTHAL. We can't wait to find out.

Dr. CARP. The answer is, "It doesn't matter."

Mr. JOSEPHSON. Perhaps I could be helpful here. First of all, I am satisfied, as a result of a fair amount of time looking at my case, as a

good trial lawyer should, that Dr. Carp is right in saying that particular answers don't matter. But I believe there is another concern here, too—

Mr. REUSS. May I interrupt to say I think the special inquiry should determine whether they matter or not.

Mr. JOSEPHSON. I agree. I understand the committee's concern with respect to the validity of the test. I would like to consult with Dr. Carp about this, but I feel that he would be glad to discuss this issue under circumstances where the significance of answers to particular questions are not necessarily going to be made public.

I think he can explain at great length why—

Mr. GALLAGHER. Would you agree if we had it in executive session?

Mr. JOSEPHSON. Would that be satisfactory? Am I right in assuming that your concern is with the validity of the test?

Dr. CARP. Yes; my concern is with the validity of the test, and I think in a sense, that the question, what are the right and wrong answers to a particular item indicates, if you will pardon the expression, a lack of appreciation on the part of the committee of what these tests are trying to do, and what answers to particular items mean.

When the test directions say there are no right or wrong answers, they mean this.

Mr. GALLAGHER. But there is a positive and negative factor in whether or not George Washington was greater or Lincoln. That is a fact which cannot be denied.

Mr. REUSS. Give us the template and let us make the judgment as to whether we are able to understand it.

Dr. CARP. If this could be in executive session and if the way in which the test is scored would not be made a matter of public record, then my anxiety would be minimized. This is my concern.

Mr. ROSENTHAL. We don't want to contribute to your anxiety.

Dr. CARP. You have already.

Mr. GALLAGHER. We don't have the full membership of the special inquiry here. Mr. Horton is not here, so I think it might be in order if you weighed Mr. Reuss' suggestion, and we would very much like to do this. If you would be here at 2 p.m. and feel at that point it should not be made public, and if we are unable to purchase one in the meantime, perhaps we will hold an executive session at a later date.

But we will have an open meeting at 2 p.m.

Mr. REUSS. If you aren't going to level with us on these things, I wish you would let me know before 2, so I can rearrange my schedule, because it is not useful for me to be patronized and told we can't have the whole answers to this MMPI test.

Are you prepared to tell me that now?

Mr. JOSEPHSON. Mr. Reuss, may I try to answer that?

Mr. REUSS. Please.

Mr. JOSEPHSON. Psychologists, as a profession, are a lot younger than lawyers. They, however, have made and are making a serious effort to develop professional ethical standards which are in every respect comparable to those which the legal and medical professions have developed and which are respected.

My hunch is, although Dr. Carp is free to speak for himself, is that he would be delighted to discuss the area of your concern in executive session. But that he could not ethically commit himself to discuss

them in a public session. My hunch also is that after that discussion, you would appreciate the reasons for his ethical concern.

Mr. REUSS. If I may address my question to him through his authorized agent here, when will he be able to tell me whether his ethical conscience will permit him to tell us about this on Monday?

Dr. CARP. My ethical conscience tells me I cannot do this in open session. In a closed session, executive session, there would be no problem.

Mr. JOSEPHSON. I would like to make it clear this is not because the Peace Corps has anything to conceal or wishes to conceal anything.

Mr. GALLAGHER. No, I understand.

Mr. REUSS. Mr. Chairman, why don't we proceed on Monday and at the point where Dr. Carp for any reason wants to go into executive session, let him ask the special inquiry at that point and I am sure the Chair, by a vote or some other method, could determine that at that time.

Mr. GALLAGHER. I think that would be an appropriate way to proceed.

Mr. Berlew, do you have a statement?

Mr. BERLEW. Yes, Mr. Chairman.

I was a little bothered by Congressman Reuss' feeling that we were being patronizing. That certainly is not our intent. We have been asking some of the same questions of our director of selection and other psychologists associated with the Peace Corps that you have been asking. And we have satisfied ourselves that in fact Dr. Carp does not know as of this minute which answers to any specific question would be appropriate or not, because he is not concerned with it in any way.

Mr. REUSS. This disturbs me, I might add, because it seems to me that the future of the Peace Corps volunteer should depend upon a test which is completely understood by the Peace Corps agency.

Mr. BERLEW. The point I was trying to make, as a fellow layman in this area, is that the answer to any particular question is not relevant to the determinations we are after. And that is the reason why our psychologists are not concerned with the answer to any particular question.

Mr. ROSENTHAL. Then why give the test?

Mr. BERLEW. They are concerned with a pattern.

Dr. CARP. Why an item is scored on a particular scale is not dependent on any particular theory of personality, with respect to the MMPI. It depends on the empirical investigations that answering an item in this particular way does in fact differentiate between a group who are called normal and a group who are given a particular psychiatric diagnosis.

Now, I am perfectly willing to share, in executive session, which items answered are scored in which way on which scales. But I really have no explanation as to why this item is scored this way on this scale. It is strictly empirical, because a certain percentage of this group answered it this way and a significantly different percentage of a different group answered it another way. Therefore, this item can differentiate between these two kinds of people.

Mr. REUSS. But you have uttered one of the greatest non sequiturs in psychological history, as far as I am concerned. It may or it may not. You are assuming it does. Let's see about it Monday.

Mr. GALLAGHER. We have a companion concern, that is why we are meeting. We are concerned with the corrosion of the whole fiber of American privacy, the right of the privacy of the individual, which is being violated under the excuse or veil of studying human behavior. And we are wondering whether or not we have reached a point where we had better reconsider some of our values and whether the importance of this study of human behavior outweighs the breach of constitutional rights.

Mr. JOSEPHSON. Mr. Chairman, a few months ago you expressed interest in the circumstances surrounding the development of the test. I don't know if the committee is aware of this article by the developer of the test, which appeared in the March 1964 *American Psychologist*. But it is a useful article, and I would be glad to submit it for the record.

Mr. GALLAGHER. We would include it and make it a part of the record.

(The article referred to, entitled "Psychology in Action," appears on p. 390 of the appendix.)

Mr. GALLAGHER. Gentlemen, we thank you very much.

We want to thank and congratulate you for the progress you have made, and the consideration you have given to this problem.

The subcommittee will stand adjourned until 2 p.m. Monday afternoon.

(Whereupon, at 4:45 p.m. the subcommittee was adjourned, to reconvene at 2 p.m. Monday, June 7, 1965.)

SPECIAL INQUIRY ON INVASION OF PRIVACY

MONDAY, JUNE 7, 1965

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 2:40 p.m. in room 2203 Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman of the subcommittee) presiding.

Present: Representatives Cornelius E. Gallagher, Benjamin S. Rosenthal, and Henry S. Reuss.

Also present: Norman G. Cornish, chief of special inquiry; Miles Q. Romney, associate general counsel, Government Operations Committee, and Raymond T. Collins, professional staff member.

Mr. GALLAGHER. The subcommittee will come to order.

The Chair will ask Mr. Berlew, Dr. Carp, and Mr. Josephson to resume their seats at the witness table. You gentlemen will consider yourselves sworn as you were at the completion of the testimony Friday.

We will renew at this point.

It is the understanding of the Chair that you, Mr. Berlew, would like to make some additional remarks concerning the protocols on the psychological testing and insert in the record your new policy pertaining to the use of the tests.

FURTHER TESTIMONY OF F. KINGSTON BERLEW, ACTING ASSOCIATE DIRECTOR FOR PEACE CORPS VOLUNTEERS, ACCOMPANIED BY DR. ABRAHAM CARP, DIRECTOR OF SELECTION, AND WILLIAM JOSEPHSON, GENERAL COUNSEL

Mr. BERLEW. Yes, Mr. Chairman. Members of the committee, the Peace Corps has always prided itself on having a great concern for the interest of the individual. I have never myself been associated with an organization which has spent as much time at high levels as well as low levels on the individual problems of the Peace Corps volunteers, for example.

There is a division, called the Division of Volunteer Support, in the Peace Corps, which would not exist bureaucratically if it were not for a particular concern for the interests of individuals.

Therefore, when this committee first initiated its inquiries into the use of the personality inventory tests, our initial reaction frankly was to believe that we had already used all of these precautions which could reasonably be used to protect any—against any unnecessary invasion of privacy. Nevertheless, because of your concern and because of your diligence in pursuing that concern, we have carefully

reexamined and reconsidered the procedures that we now use, both before last Friday's hearings and since that time.

We now have, we believe, a series of procedures by which we believe an improvement can be made and the interest of the privacy of the individual can be better protected.

I would like, with your permission, to outline what we intend to do in this regard.

Mr. GALLAGHER. If you will, please.

Mr. BERLEW. First, the Peace Corps at this point does not destroy the answer sheets to the MMPI questions. We propose in the future to destroy all answer sheets after they are scored. The answer sheets will come into Peace Corps at Washington and be destroyed by our own psychologist in Peace Corps Washington to insure there was no slip-up in this regard.

The profiles or the patterns of answers will be sent to the psychologists who are responsible for the selection of individuals in or out of the Peace Corps.

It is not possible to determine the answer to any given question from these profiles. Nevertheless, these profiles will also be destroyed as soon as the selection process is completed, that is at the end of the training period.

Secondly, there are some 185 questions on the MMPI which are not scored. One hundred and eighty-five of the five hundred and sixty-six total questions are not scored—I will leave to Dr. Carp any explanations you may wish as to why they are there if they are not scored. In any event, they are not scored.

We would propose to eliminate these questions from future tests administered by the Peace Corps.

Thirdly—

Mr. CORNISH. May I interrupt you there. I understand a number of the 185 questions include those which members of the subcommittee have taken some exception as being too intrusive.

Mr. BERLEW. That is correct, Mr. Cornish.

Mr. GALLAGHER. Questions referring to Christ and other religious matters.

Mr. BERLEW. I believe some 10 of the 22 questions which might be described as religious are unscored and would be eliminated as a result of this new procedure.

Mr. GALLAGHER. Please continue.

Mr. BERLEW. Thirdly, we intend to negotiate for a test booklet which is specifically designed for Peace Corps purposes. This test booklet for example, would omit these 185 questions to which I just referred. It would also include new test instructions on a cover sheet.

Mr. GALLAGHER. The test that you will remove the 185 questions from is the Minnesota Multiphasic Personality Inventory presently being used?

Mr. BERLEW. That is correct, Mr. Chairman.

The new test instructions would state more clearly than they do at this point that any person who has personal convictions against answering any one or more of the questions on this test is free to omit the answer to those questions, and will also state that any such omission will not lead to selection out of the Peace Corps.

Mr. Chairman, those are the principal procedures that we intend and propose to institute, largely as a result of your inquiries into this subject matter, which we very much appreciate.

Mr. GALLAGHER. Will the applicants be counseled that they are free to refuse their answers, or do you intend to write this into the preface?

Mr. BERLEW. This would be on the cover sheet of the test booklet. It is something that we could very easily call to the attention specifically on the persons taking the tests at the time they take it.

Mr. CORNISH. Does that relate to any and all questions?

Mr. BERLEW. That relates to any and all questions, Mr. Cornish. On June 11, 1965, the Peace Corps transmitted to all field assessment officers supplementary instructions to be read to all trainees taking the MMPI. A copy of these instructions is enclosed. We have since reviewed these instructions and made substantial revisions in them. We have asked the Psychological Corp. to print for the Peace Corps an MMPI booklet with 399 items and a special introduction and set of instructions on the cover page. A copy of our proposed introduction and instructions, which is being transmitted to the Psychological Corp., is enclosed.

SUPPLEMENTARY INSTRUCTIONS FOR THE MMPI TRANSMITTED TO ALL FIELD
ASSESSMENT OFFICERS ON JUNE 11, 1965

SUPPLEMENTARY INSTRUCTIONS FOR THE MMPI

(Distribute booklets and answer sheets first and then read the following instructions to the trainees.)

The Minnesota Multiphasic Personality Inventory, which you are to take now, is a widely used questionnaire which will help us understand the sort of person you are. It is a standard part of Peace Corps assessment procedures, and has been taken by thousands of trainees in previous programs. Since many of the items inquire about very personal matters, three points concerning the use of the inventory should be made clear before you take it.

1. The results will be held in strict confidence by the assessment and selection staff. The inventory will not become part of your permanent Peace Corps file and will be destroyed once selection is completed.
2. While we find the inventory useful, it is never by itself the basis for a selection decision or a placement recommendation.
3. We encourage you to take the inventory because it is in your interest as well as that of the Peace Corps that we understand you as thoroughly as we can, but taking it is voluntary. If you decline to take it, we would naturally like to know why, but a refusal will not in and of itself harm your chances for selection.

Some of the items may strike you as strange and many of them are quite personal. Since they ask you to report your feelings and experiences, it should be obvious that they cannot be scored as correct or incorrect. Indeed, we will not even look at your responses to any individual items.

In our use you are to answer only items 1 through 366 and items 374, 383, 397, 398, 406, 461 and 502. I have written the numbers of these items on the blackboard (if the items are marked in the booklet or identified in some other way, substitute an appropriate phrase here). Please be sure to answer these items in the appropriately numbered spaces on your answer sheet.

Now read the instructions on the front of the booklet to yourselves while I read them out loud. (Read the instructions.)

PROPOSED INTRODUCTION AND INSTRUCTIONS SUBMITTED TO THE PSYCHOLOGICAL CORP.

DO NOT OPEN UNTIL TOLD TO DO SO

PEACE CORPS EDITION OF THE MINNESOTA MULTIPHASIC PERSONALITY INVENTORY

Starke R. Hathaway, Ph.D., and J. Charnley McKinley, M.D.

INTRODUCTION

The Minnesota Multiphasic Personality Inventory is a widely-used questionnaire. Many of the statements concern personal matters. None of your responses to particular statements, however, is available to the Peace Corps. Only the total of your true or false responses to large groups of statements (which are called scales) is provided to the Field Assessment and Selection Officers in a report (which is called a profile).

The Field Assessment and Selection Officers will keep your profile in the strictest confidence just as a doctor would keep confidential the results of a medical examination. The profile will not become part of your Peace Corps file. It will be destroyed as soon as Peace Corps selection ends. Your individual answer sheet will be destroyed as soon as it is scored.

If you would prefer not to respond to any statement, you need not do so.

No one is ever selected out or enrolled as a Peace Corps Volunteer solely on the basis of his or her MMPI profile.

We hope, however, that you will take the inventory. Its profiles have provided us with useful information.

INSTRUCTIONS

This inventory consists of numbered statements. Read each statement and decide whether it is true as applied to you or false as applied to you.

Please respond to as many statements as you can. The profiles are of greatest value when all or almost all of the statements are answered.

You are to mark your answers on the answer sheet you have. Look at the example of the answer sheet shown at the right. If a statement is TRUE or MOSTLY TRUE, as applied to you, blacken between the lines in the column headed T. (See A at the right.) If a statement is FALSE or NOT USUALLY TRUE, as applied to you, blacken between the lines in the column headed F. (See B at the right.) If a statement does not apply to you or if it is something that you don't know about, make no mark on the answer sheet.

Section of answer sheet correctly marked		
	T	F
A	3	11
B	11	3

Remember to give YOUR OWN opinion of yourself.

In marking your answers on the answer sheet, be sure that the number of the statement agrees with the number on the answer sheet. Make your marks heavy and black. Erase completely any answer you wish to change. Do not make any marks on this booklet.

NOW OPEN THE BOOKLET AND GO AHEAD.

Mr. BERLEW. We also publish a Peace Corps Handbook which is distributed to all persons who join the Peace Corps. We can include in the handbook a statement to this effect and would include in the handbook a statement to this effect.

Following is a copy of the language relating to psychological testing to be included in the revised version of the Peace Corps Handbook distributed to all Peace Corps trainees at the outset of training. That section is now in final draft and should be sent to the printer within the next 6 weeks for final printing. It reads:

"During training the training institution field assessment officers will give some psychological tests and personality inventories. You are not required to answer any of the test questions if to do so would be contrary to your personal convictions. Failure to answer any or all of them will not prejudice consideration of your potential for overseas service, and in no instance are these tests and inventories used as the exclusive basis for judging you. In fact no one element of the selection process is used to decide whether you qualify. Each element makes a distinctive contribution of its own. It is the total picture that counts."

Mr. GALLAGHER. Mr. Rosenthal.

Mr. ROSENTHAL. I would like to withhold judgment, Mr. Chairman, until we can hear from Dr. Carp as to why these questions were in if they were not counted, or if we can have some explanation as to whether the type of questions, other than those the chairman referred to, are going to be eliminated.

Another thing I would like to add is I think your attitude is commendable, and somewhat different from other witnesses we have had before the committee, which prompted some of us to take more direct action.

I still solicit Dr. Carp's help in explaining to us some of these problems we have had.

Dr. CARP. The developers of the test identified 566 items which they thought would be potentially useful in differentiating between people with various psychiatric problems and those who are normal.

In the scales that have been developed to date, only 371 items have turned out to in fact be useful in differentiating between psychiatric normals and abnormals. The other items are in there primarily for research purposes, to lead to the development of future scales which might in fact prove useful.

Since, however, the Peace Corps is engaged in a sense in the operational job of applying the scales and instruments that have already been developed, we see no need for administering items which are not in fact going to be used in decisions about this particular individual volunteer. So that there is no need for the Peace Corps to administer these items which are not interpreted, which do not contribute to the test profile that the psychologist uses.

The items that are not scored do not particularly differ in kind or degree of subject matter from the ones that are scored. They are the ones that I guess you would say just did not turn out to be differentiating, so they are not in fact scored.

Mr. ROSENTHAL. Can we draw the same inference that when this test was used by other Federal agencies, they, too, were unable to score these 185 items? I would assume that to be the case.

Dr. CARP. There are many other scales available for use with the MMPI that are not what are called the clinical scales, and since the Peace Corps is using the MMPI primarily to assist in identifying people with psychiatric abnormalities, it does not fit our purposes to use these other scales.

I am just really in no position to judge as to what other agencies do or why.

Mr. ROSENTHAL. Is it your intention to advise us of the 185 questions or subjects that are going to be eliminated?

Dr. CARP. I see no problem in this. They are roughly the last 185 items in the booklets which you have.

Mr. GALLAGHER. This is the one that ends in 566—"I like movie love scenes."

Dr. CARP. That is correct.

Mr. GALLAGHER. "I feel like jumping off when I am on a high place." This does include the religious question—"Did Christ perform miracles such as changing water into wine?"

It is the last 185?

Dr. CARP. Yes, sir; roughly.

Mr. ROSENTHAL. You have no objection to our including those questions in the record; the questions that were eliminated.

Mr. BERLEW. No, we don't. Excuse me. The General Counsel had better answer that question.

Mr. ROSENTHAL. Beginning with what number, Dr. Carp?

Dr. CARP. I do not have that precise information here. The reason I said about the last 185 is I think there are 5 items in there which I have not identified, which are scored on one of the scales, and which when we negotiate with the Psychological Corp. for republishing, will be included as part of the regular test.

Following are all of the numbers and several examples of questions which Peace Corps trainees will no longer be asked to answer as part of the MMPI. In the future, trainees will be asked to respond to 399 items. Those items eliminated are:

367.

368.

369. Religion gives me no worry.

370.

372.

373. I feel sure that there is only one true religion.

375.

376.

378. I do not like to see women smoke.

379.

380.

381.

382.

383.

384.

385.

386.

387. The only miracles I know of are simply tricks that people play on one another.

388.

389.

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- 412.
- 413. I deserve severe punishment for my sins.
- 414.
- 416.
- 417.
- 418.
- 419. I played hooky from school quite often as a youngster.
- 420. I have had some very unusual religious experiences.
- 421. One or more members of my family is very nervous.
- 422. I have felt embarrassed over the type of work that one or more members of my family have done.
- 423.
- 424.
- 425. I dream frequently.
- 426.
- 428.
- 429.
- 430. I am attracted by members of the opposite sex.
- 431.
- 432.
- 433.
- 434.
- 435. Usually I would prefer to work with women.
- 437. It is all right to get around the law if you don't actually break it.
- 438.
- 439.
- 441. I like tall women.
- 442.
- 443.
- 444.
- 445.
- 447.
- 448.
- 452.
- 453.
- 454.
- 456. A person shouldn't be punished for breaking a law that he thinks is unreasonable.
- 457. I believe that a person should never taste an alcoholic drink.
- 458. The man who had most to do with me when I was a child (such as my father, stepfather, etc.) was very strict with me.
- 459. I have one or more bad habits which are so strong that it is no use in fighting against them.
- 460. I have used alcohol moderately (or not at all).
- 463.
- 464.

465.
466. Except by a doctor's orders I never take drugs or sleeping powders.
467.
468.
470. Sexual things disgust me.
471. In school my marks in deportment were quite regularly bad.
472.
474. I have to urinate no more often than others.
475.
476.
477.
478. I have never been made especially nervous over trouble that any members of my family have gotten into.
480. I am often afraid of the dark.
483. Christ performed miracles such as changing water into wine.
484.
485. When a man is with a woman he is usually thinking about things related to her sex.
486. I have never noticed any blood in my urine.
488. I pray several times every week.
489.
490. I read the Bible several times a week.
491. I have no patience with people who believe there is only one true religion.
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513. I think Lincoln was greater than Washington.
514. I like mannish women.
515. In my home we have always had the ordinary necessities (such as enough food, clothing, etc.).
516. Some of my family have quick tempers.
517.
518.
519. There is something wrong with my sex organs.
520.
522.

523.
524. I am not afraid of picking up a disease or germs from door knobs.
525.
526.
527. The members of my family and my close relatives get along quite well.
528.
529. I would like to wear expensive clothes.
530.
531.
532.
533. I am not bothered by a great deal of belching of gas from my stomach.
534.
535.
536.
537.
538.
539. I am not afraid of mice.
540.
541.
542. I have never had any black, tarry-looking bowel movements.
543.
544.
545.
546.
548. I never attend a sexy show if I can avoid it.
550.
551.
552.
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557.
558. A large number of people are guilty of bad sexual conduct.
559.
560.
561.
562. The one to whom I was most attached and whom I most admired as a child was a woman. (Mother, sister, aunt, or other woman.)
563.
565.
566. I like movie love scenes.

The 399 items retained are scored on the original 9 clinical scales, the 3 verification scales, and the social introversion scale of the MMPI. The latter scale is the most widely used of the nonoriginal MMPI scales and as a practical matter has become one of the standard scales. This summer, Peace Corps trainees who were asked to take the MMPI after June 15, 1965, were asked to respond to only 373 rather than all 566 items, because only the 12 original scales were being used.

Mr. CORNISH. Mr. Berlew, you also, as I understand it, in some localities give tests that are different from the Minnesota Multiphasic Personality Inventory. As I understand it, they are given in addition to the Minnesota test because the Minnesota test is the only one which is used throughout all of the Peace Corps trainee centers.

Will this same matter of choice apply also to those personality inventories, the ones that are used besides the Minnesota test?

Mr. BERLEW. Mr. Cornish, I see no reason for differentiating the handling of the different tests that are used.

Mr. CORNISH. I know also that in one locality, I think on the west coast, you utilize essay type questions as one of the personality tests, and I assumed that would also apply to those tests.

Dr. CARP. Yes, sir.

Mr. BERLEW. Yes, sir.

Mr. ROSENTHAL. Going back again—the thing that disturbs me is that some of these things could be done in a more direct fashion—for instance, among the questions that remain are questions obviously intended to inquire into the applicant's health. No. 14 says "I have diarrhea once a month or more." No. 18, "I am very seldom troubled by constipation." No. 29, "I am bothered by acid stomach several times a week." No. 24, "I have a cough most of the time." No. 44, "Much of the time my head seems to hurt all over."

Wouldn't these kind of answers come out in a less offensive way if they were part of a medical interview? Or is it geared toward some kind of esoteric psychological inquisition?

Dr. CARP. I don't think it would make any difference to the applicant whether he answers this question as a part of an extensive physical examination form, as opposed to being in the format of the psychological test.

Mr. ROSENTHAL. It makes a difference to me in this respect. The applicant is really not the judge of what he should answer, because he is in an atmosphere where he is soliciting a job. Now, there has been much testimony as to whether that job is a right or privilege. This is for another essay. But when he fills out a medical form and answers questions to a doctor, he is putting it on a line wherein he accepts all inquiries concerning his physical health. He does not know that these questions are directed toward that end. He is not sure of that, when he answers this test.

Dr. CARP. I would like to answer this in two ways.

First of all, I would like the committee to differentiate between the Peace Corps' selection process, that phase of the process wherein we use these tests, and the typical competitive situation where an applicant is applying for a job.

Selection of volunteers in the Peace Corps during training is not the same kind of environment as a competitive job seeking situation. One of the purposes of the training program with respect to individual evaluation is to make it a cooperative enterprise between the volunteer and the Peace Corps staff, to really evaluate him in terms of the requirements of the job overseas, not only the technical requirements but the personality, emotional requirements of 2 years of service in a foreign country. It is as much the trainee's responsibility to evaluate both his own commitment to this kind of an activity and his own fitness for this kind of an activity, without anybody feeling that, if either the Peace Corps or the individual decides that this is really not the kind of thing that he should do for the next 2 years, this is any reflection whatsoever on his fitness or suitability for any one of hundreds of thousands of any other kinds of jobs and situations including—

Mr. ROSENTHAL. How does he know that by taking this test?

Dr. CARP. He knows this first of all before he takes this test. The purpose of psychological testing in the Peace Corps is explained to him, explained with him. He knows when he goes in if there are a hundred trainees in a program, that our job is not to pick the 75 best trainees to send overseas and leave the 25 poorest ones home. Our job is to send overseas all the qualified trainees, and if all 100 of them are qualified, nobody is more delighted than the Peace Corps.

So it is not a question of whether I have to prove myself better than somebody else in order to qualify. The problem is to convince both myself and the staff that I am qualified.

The Minnesota Multiphasic Personality Inventory, to get to the second part of your question, is not a subterfuge or another way to get at a physical examination. It is not a physical examination. We are really not concerned with the factual truthfulness of an individual's response to a question. This is his feeling, his attitude, his opinion of the question—even in some respects it is what he is willing to admit to somebody else in this medium.

Now, to the extent that research and practice and experience indicate that these kinds of responses are in fact useful in evaluating people, then the instrument becomes useful.

It is the Peace Corps' experience, as well as, I think, the experience of many people, that the test or the profiles used in this way are in fact useful, and I emphasize the word "useful." They are not determinative. They do not prove that the individual is actually this or that. And the Peace Corps would certainly never base its decision on whether an individual goes overseas solely on the basis of his response to the MMPI. But it is true, we have personal experience to back us up, that we can help to identify people through the use of these tests whom everybody would agree it is wrong to send overseas. And there is some likelihood that if we did not use the test, we might have in fact sent them overseas, both to their own harm as well as that of the Peace Corps and the country overseas.

Mr. ROSENTHAL. I think you testified earlier, doctor, that you had been associated with the selection of candidates in the space program; is that correct?

Dr. CARP. Yes, sir.

Mr. ROSENTHAL. Did you use this test with those candidates?

Dr. CARP. Yes, sir.

Mr. ROSENTHAL. And what was your experience there as compared to the Peace Corps?

Dr. CARP. Again, since the environment, the way in which they were used, was very similar to the way in which they are used in the Peace Corps, they were a useful additional bit of information. Again, they were not determinative in any case.

Mr. ROSENTHAL. Could you relegate some percentage degree of importance to the results of these tests as ranked with other considerations—personal interviews or experience backgrounds, or direct answers?

Dr. CARP. Well, I hope I do not appear to be resistant, but I really cannot, because the way in which they are used in the Peace Corps makes it impossible, in one sense, to assign percentage values.

My own feeling is—and this is strictly my personal feeling—if, say, in the present program year we will give this test to about 9,200 people—if it helps to keep from going overseas only 5 individuals who really should not go overseas, the test is well worth the cost and effort. Now, I think it is many more than 5. But I personally would be satisfied if there were only five, because the test is really used in a protective sense rather than in an eliminative sense.

Mr. ROSENTHAL. There is a line of philosophy that disagrees with that in a somewhat related situation. The U.S. Supreme Court—many Justices have said that if we let five criminals go by protecting the rights of society, we have done the right thing.

If we are invading the rights of many just to save from making the mistake in letting the five go overseas, I am not particularly impressed with that.

But going off on another tack, there has been testimony before the committee now, that in addition to the question of the violation of privacy, there are some grave doubts as to the usefulness, as to the validity, as to the integrity of these tests themselves.

You, I assume, take exception to that.

Dr. CARP. Yes, sir.

Mr. ROSENTHAL. And that is based on your own personal experience?

Dr. CARP. Not only my own personal experience, but on my survey and knowledge of the research literature and on my survey and knowledge of the way in which the test is used for the purposes for which the Peace Corps uses it.

There are many, many instances in which this test, like many other instruments, can be improperly used or misused.

The Peace Corps takes great care, for example, that only professionally qualified psychologists are involved in that phase of the selection process which involves the use of psychological tests.

I think a careful reading of all of the literature on tests such as the Minnesota Multiphasic Personality Inventory, will indicate that neither the developers of the test nor the Psychological Corp. which sells the test, recommends its mechanical use in this kind of a situation. And the Peace Corps' decision and practice in the use of the test was with the full knowledge of the kind of situations in which its use is appropriate, and those in which it is inappropriate. I would not like to be on record as defending its use in all conceivable kinds of situations.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. JOSEPHSON. Mr. Chairman—before Mr. Rosenthal finishes his questioning—I want to make clear, if I could, one point, and that is with respect to our authority to agree to the printing of the unscored items in the record. We have been discussing this over the weekend with the lawyers who represent the Psychological Corp. You are probably familiar with the firm—Judge Rifkind's firm in New York. Mr. Morris Abram is one of the two lawyers concerned with this particular matter, and Mr. Howard Seitz is the other.

The Peace Corps does not own this test. We buy it from the Psychological Corp. They own the copyright on it, and they have other property interests in it.

One of the conditions under which the test is sold is that questions and answers, including practice questions and answers, may not be reproduced without written permission. So we really are not in a position where we have authority to agree or not to agree to the reproduction of any of the questions in the record of this committee.

However, I have talked to the chairman and to Mr. Cornish about the willingness of the Psychological Corp. to discuss issues such as these with the committee, and I have suggested that if the committee were interested in such a discussion, I am sure the Psychological Corp. would cooperate. Mr. Seitz will be getting in touch with Mr. Cornish this afternoon to see if they could work out some mutually acceptable arrangements along these lines if the committee thought it was important.

Mr. ROSENTHAL. Did you discuss with Judge Rifkind and his partner the constitutional matters, such as invasion of privacy, and solicit their opinion on this subject?

Mr. JOSEPHSON. Not over this weekend. But when we were first advised of the committee's inquiry, I did discuss these matters with Morris Abram, and in that connection, Dr. Bennett, who is the president of the Psychological Corp., has, I know, prepared a statement. I know Morris has reviewed that statement. It does go into these issues. And I believe that it is Morris' opinion—although he ought to speak for himself—that he does not believe that the kind of use to which the Peace Corps puts the Minnesota Multiphasic Personality Inventory, and the circumstances under which the Peace Corps uses it, involves any unreasonable invasion of privacy.

Mr. ROSENTHAL. This is a variation of the end which justifies the means.

Mr. JOSEPHSON. No; I don't think so, Mr. Rosenthal. I think there are many situations in which there are public policies that cut different ways, and where one must strike a balance. I believe the posture of the Peace Corps here is one of being very concerned with the clear mandate, if you will, that we received from the Congress to select and send overseas as volunteers only those who are clearly qualified to withstand all the stresses of Peace Corps service, and on the other hand the clear public policy in favor of individual privacy. We are trying to strike a reasonable balance between those two policies.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Reuss.

Mr. REUSS. Mr. Chairman—I just heard counsel's statement about their reluctance or unwillingness to allow publication in the printed record of the answers to the 566 questions.

I would want to respect that reluctance. But I would suggest that, after we finish the public examination of these witnesses, that we go into executive session and have them present to us the answers that we may look at them and that we exercise our discretion not to include those in the printed record, so that their copyright arrangements would be respected.

Mr. JOSEPHSON. Mr. Chairman, if I could speak on that point.

In the course of my discussions with the chairman and the staff this morning, it was suggested that one possible solution would be to make available to the committee on a basis that was acceptable to the Psychological Corp. this information. My personal opinion is that that can be worked out, and that either the Peace Corps or the Psychological Corp. would be agreeable under conditions to make available to the committee this type of information.

I have tried to get hold of Mr. Seitz to make sure that the Psychological Corp. had no objection to this. From the point of view of our relationship with the Psychological Corp., I am almost certain it has not. But I expect to be able to get a hold of Mr. Seitz some time today and be in a position to make available to the committee that booklet under certain conditions.

Mr. REUSS. Mr. Chairman, that sounds like progress, and certainly will be satisfactory to me.

Mr. GALLAGHER. I think it is, Mr. Reuss. The Chair is concerned about two problems. One is the problem of copyright and, secondly, with the ethics of Dr. Carp. And I think that may well be a way in which we can obtain full access to the information we seek.

Mr. REUSS. I do have a question or two.

First I would like to congratulate you, Mr. Berlew, and your associates on the forward-looking statement you made. It seems to me this is definite progress.

I would like to ask Dr. Carp a little bit about the basis of the statement you made today, and which you made Friday, that personal experience backs up the proposition that these tests are really helpful. I think that is a fair paraphrase of what you said.

Let me first call your attention to Mr. Berlew's excellent statement the other day, in which he lists the items in the comprehensive selection process. I will just read them.

References, evaluations from instructors during the 10- to 12-week long Peace Corps training program, the opinions of host country nationals participating in a training program, peer ratings

that means what your fellow Peace Corps trainees have to say about you—

health examinations—

which, if I may say so, seem to me a better way of getting at this obsession with bowel movements which seems to run through the 566 questions—

observations and interviews by qualified and experienced psychologists, performance in the various components of training, including technical skills, psychiatric interviews when indicated, and review of the full field investigation conducted by the Civil Service Commission and in some cases by the Federal Bureau of Investigation.

All of those things I have mentioned seem to me excellent and entirely proper in carrying out the mandate of the Congress.

We do want, and happily we have gotten, a marvelous set of young men and women who have gone overseas with the Peace Corps.

My question however is this:

I should think that any abnormalities, or anything requiring a close psychiatric look at a trainee, would be very, very likely to come out through any one of these dozen or more methods that you have set forth here, and I wonder, therefore, what you really gain by giving everybody the Minnesota Multiphasic Personality Inventory.

Now, as a result of today's action you have cut it down a good deal, and indeed I would hope that there would be a very widespread and hopefully universal attitude on the part of Peace Corps trainees that they do not propose to submit to this indignity, and that they doubt its value, and hence "thank you very much" aren't going to take it, and thus the thing would wash out that way.

But leaving that aside, what proof is there that the Minnesota Multiphasic Personality Inventory test has in fact caught a potential troublemaker that would not have been caught by the dozen or more legitimate methods of ascertaining possible abnormalities that you have listed?

Dr. CARP. In reviewing our experience, in preparation for appearance before this committee, we went through the folders, the information we have, on a sample of volunteers and we identified in our own records, calling on people who had participated in the Peace Corps' selection process, cases which fall in three categories. Category 1 I would call individuals where really the first indication that they should be studied more intensively from the standpoint of their emotional health was their performance on the Minnesota Multiphasic

Personality Inventory. The second group is a relatively large group, thank goodness, whose performance on the MMPI indicated relative normality, and whose subsequent behavior and performance indicated normality. A third group is one in which all of the other information we had on the individual created some doubts in the selection board's mind, as to whether the individual should go overseas, and in which the MMPI helped to clear up these doubts and kind of tilted the scales in the direction of—well, I think we should send him overseas.

Now, we do not have a precise count, because we are not primarily a research organization, of how often these 3 categories of incidents have occurred in the 14,346 volunteers who have gone overseas, and the 4,716 who have not gone overseas. But I assure you that there is a considerable body of opinion in the Peace Corps that a sufficient number of examples occur in the first and third category that we would in fact give up something if we did not use this test.

Now, to say that the individuals in the first category, for whom the first indication was their performance on the MMPI, would never have been identified during the 12-week training program, is a difficult statement to make, because we don't know.

Mr. REUSS. When do you have the MMPI in the training period?

Dr. CARP. Usually during the first week.

Mr. REUSS. Well, that is the answer right there.

Dr. CARP. This is because from the Peace Corps' point of view it is extremely economical, both of the trainee's time and of the staff's time. This is one of the MMPI's great advantages—that it is objective and takes little professional time for the scoring of the test. It takes professional time and experience for interpreting the test. But you get a relatively large amount of information at relatively small cost.

Now, to have a psychiatrist or a psychologist in individual face-to-face confrontation read every one of these items to an individual is certainly conceivable. However, I would think it would be uneconomical and a relative waste of highly qualified expensive staff time.

This is one of the reasons for the development of these group administrable tests—economy in time and effort with relatively no sacrifice, the way the Peace Corps uses it, in accuracy.

Mr. REUSS. Before I yield to my colleague, Mr. Rosenthal, I do want to announce that I am going to come back at you now with the suggestion that really you do not have any proof that the MMPI discovers something that would not otherwise be uncovered. But I just want to have you get ready for that.

I will now yield.

Mr. ROSENTHAL. I just have one question.

How many psychologists do you have on the staff reviewing these tests?

Dr. CARP. At every training program we have an average of 1 psychologist for every 50 to 60 trainees. This is the psychologist at the training institution who is most intimately connected with the training program.

In addition, we have a consulting psychologist who chairs our selection boards for about every hundred trainees.

Mr. ROSENTHAL. Thank you.

Mr. REUSS. Now, let me go through these three categories with you.

First of all, let's take the third category—those about whom some doubt of possible abnormality has manifested itself, but who have been cleared up by the MMPI.

I would have no particular objection to that use of the MMPI and someone who has been rated by objective methods as possibly suffering from psychological disturbances.

I would hope that if they are really suffering from psychological disturbances, or appear to be, their methods of clearing them of a different and better nature than the MMPI would be used. But at any rate, to give this to people who are already classified as "possibly disturbed" is, I think, more understandable.

Then we have the large category of those who do not display any abnormality at all, and who also passed the MMPI with flying colors. That is the larger category.

Then you have the category you named first, and that is the one we are interested in, of those who the first indication of whose abnormality was given by the MMPI. But you substantially vitiate this when you say, as you do, that you give them the MMPI right after they arrive. That is before any of the dozen or so processes of eliciting disturbance has had a chance to operate.

Therefore I do not really think, with all due respect, that the Peace Corps has shown to my satisfaction that the MMPI has caught one single case that would not otherwise have been elicited, unless you keep the MMPI results locked up for 12 weeks and then only look at them at the end, and if you could establish in those case histories that there had been absolutely nothing abnormal reported by the host-country nationals, the instructors, the fellow students, the doctors, the health examinations, the psychologists, and so on.

Is that not so? Doesn't this claim of practical verification pretty much wash out?

Dr. CARP. I don't believe so. The whole problem of the nature of proof is difficult. My colleague suggests that maybe for discussion we might give you some of the facts in one individual case in which we feel that the MMPI was useful, and with your permission I will read it.

Mr. REUSS. This will be the case of X?

Dr. CARP. Yes—we call him No. 5.

This 20-year-old man was invited to an agricultural program as a small industries specialist. His performance in training ranged from adequate to outstanding. The staff saw him in a generally favorable light, describing him as competent, able, flexible, and willing. His peers also reacted favorably to him.

The CSC report was generally positive. It indicated that the subject had been adopted by an uncle who others saw as demanding more than the subject was able to produce. He in turn was seen as responding by working to the best of his ability.

By contrast, the MMPI was indicative of either a psychotic or of an adolescent without focus. The MMPI yielded scores of 70 or above on scales 4, 5, and 9, indicating an individual who rejects authority and is somewhat disorganized and and hyperactive in thought and action. In addition, the relationship of scale 7 to 8 indicated that the individual may have some looseness in thought.

These results were substantiated in psychological interview and by other psychological tests which indicated very low frustration tolerance, low superego strength, suspiciousness, insecurity, lack of criticalness, tension, and uncertainty of self.

In view of the discrepancies between performance in training and the psychological evaluations, projective techniques and a psychiatric consultation were requested. They confirmed the presence of a psychotic process in the subject, rather than the identity diffusion of adolescence.

Based on the above findings, the subject was separated at the Second Intermediate Advisory Selection Board for reasons of personality unsuitability. In the exit interview, the professional opinion was shared that the trainee had undergone great perturbation and was just beginning to work it through. This was confirmed by the subject who shared his own concerns about his behavior and the fact that he now had some understanding of a very confused and anxiety-provoking period in his life.

The MMPI made a significant contribution in this case and was protective to the individual. His behavior was such that he might have been selected had we not been alerted to look more closely at his dynamics. To have subjected this individual to additional stress at this period of his life may have resulted in a psychotic decompensation of serious proportions.

Mr. REUSS. When was this selection-out process effort—how many weeks? You say the second selection board. When does that occur?

Dr. CARP. This is probably at about 16 weeks.

Mr. REUSS. At the end?

Dr. CARP. No. The middle.

Mr. REUSS. I was a little confused. Toward the end there you said that his behavior had deteriorated? I thought you said that he was grateful because he realized his behavior had been odd.

Dr. CARP. That's right. In the exit interview. "The professional opinion was shared that the trainee had undergone great perturbation and was just beginning to work it through." In discussing the reasons for his selection, he had an interview with the senior psychologist who tried to explain to him why he was selected out in such a way that there would not be traumatic injury to the individual. This is what he is trying to say in this statement—that he tried to explain to the individual why he was not being selected to go overseas, and he said that the subject agreed.

"This was confirmed by the subject" who shared his own concerns about his behavior—and the fact that he now had some understanding of the very confused anxiety-provoking period in his life.

Mr. REUSS. All right. That is case history No. 5.

How many other case histories among the 19,000 Peace Corps trainees are there, which you assert—in which you assert abnormality was discovered only by the MMPI, and would not have been discovered otherwise?

Dr. CARP. I would have to go through our 19,603 folders, which I have not done, or have somebody go through them.

I would say there are a significant number but a small percentage.

However, I am reluctant to eliminate the use of any device or procedure which can help in not sending even one of these people overseas.

We are dealing with human lives here. We send some of these people overseas, even doing everything we can, who should not be sent. We see what this does to them.

With the responsibility given to me, with due regard and concern that I do not hurt anybody, I do not want to send one individual overseas who may become psychotic primarily because of the situation which the Peace Corps put him in. And I take this responsibility very seriously, sir, because I know what it can do.

Mr. REUSS. Yes, I am sure you do. However, what I wanted was evidence additional to case No. 5, if you have it, which would bear out your assertion that there was a broad body of experience in the Peace Corps which shows that this test is valuable in discerning psychoses that would not otherwise be selected.

Dr. CARP. Remember, we did not say we discerned a psychosis. We did not say that this individual was psychotic. We did say that——

Mr. REUSS. I thought you said in this case history——

Dr. CARP. No, sir.

Mr. REUSS. The words I jotted down were “adolescent” and “psychotic.” Would you refer back to those?

Dr. CARP. Yes, sir, I will. “They confirm the presence of a psychotic process in the subject rather than the identity diffusion of an adolescent.” This does not mean this is an individual who must be immediately institutionalized and classified as legally psychotic or legally insane.

Mr. REUSS. Well, but that is entirely different. The word “psychotic” does not mean that one has to be institutionalized.

Dr. CARP. Right.

Mr. REUSS. Well, I invite you to file for the record any additional case histories in substantially the form that you have here presented which tend to show, as I agree case history No. 5 tends to show——

Dr. CARP. We have half a dozen or so which we have prepared. But this is by no means exhaustive. These particular cases were arrived at by phoning psychologists who had had contact with recent Peace Corps programs and asking them to indicate cases in which they had felt it was useful.

Mr. REUSS. Will you file whatever you have, whatever the basis for your assertion that this is a good discoverer of potential psychosis, which would not otherwise be discovered—cases analogous to case No. 5.

Dr. CARP. Yes.

CASE STUDIES ILLUSTRATING THE USE OF PSYCHOLOGICAL TESTS IN PEACE CORPS VOLUNTEER SELECTION

GROUP A: MMPI FLAGGED A SERIOUS PROBLEM THAT MIGHT OTHERWISE HAVE BEEN MISSED

Case No. 1

This trainee, a 22-year-old, male, college graduate, was invited to a teaching program where his performance was adequate but not outstanding in the first half of the program. His peers tended to ignore rather than reject him, and while a number of them nominated him as adaptable on the peer nomination form, he ranked close to the bottom of the group in terms of number of nominations for success.

He made a generally good impression on the FAO in his initial interview, although the FAO had some concerns about his stability because of the nomadic pattern of his life. His MMPI profile was bizarre, featuring extreme elevations on the schizophrenic, psychopathic, femininity, and depression scales. Because of this unusual test record, the FAO referred the trainee to the psychiatrist for an early interview.

The psychiatrist was impressed by his flat, unemotional responses and depressed air. The interview revealed that he had experienced much family strife and had turned away from his father to identify with a rather unstable teacher, whose wandering career he was seeking to emulate by entering the Peace Corps. He had experienced a period of depression as a student for which he had been treated in a university counseling center.

At the midboard, the psychiatrist disqualified him, with the FAO concurring, saying that he had a history of depression, was currently depressed, and had a significant potential for depression and psychosomatic disorders in reaction to the stresses of an overseas assignment.

Because contact had been established early, the trainee had developed a comfortable relationship with the psychiatrist and was able to discuss his future plans realistically both with him and with the FSO.

Case No. 2

This 21-year-old male junior came from a culturally rich but somewhat sheltered family background. He was an "A" student in college and had been looking forward for 3 years to joining the Peace Corps. He enrolled in the advanced training program for juniors and was considered by the trainees and staff as one of their outstanding possibilities. However, at least one member of the host country national staff expressed reservations but "didn't know why."

The MMPI revealed a masculine-femininity score of extreme elevation in relation to other scores which were within the normal range. For the assessment officer this was the first indication of some potential difficulty of feminine interests. Before the clinical interview this observation did not seem to be in keeping with his behavior at the training site.

However, during the clinical interview the assessment officer inquired about his "social relationships" and the trainee indicated that "everything was fine." But bearing in mind the MMPI, the assessment officer prodded a bit and suddenly the trainee volunteered the information that he had found "a new found freedom in sexual affairs." Upon further discussion the trainee disclosed that he had had recent homosexual experiences, but that he regarded these as merely exploratory and nothing serious.

On the advice of the field selection officer, the assessment officer confronted the trainee with the observation that, although this type of exploration is not unusual among boys just reaching puberty, it was a concern when it occurred in somebody of his age. During further interviews the trainee began to analyze feelings and thoughts concerning this behavior, and the selection board which met at the end of his advanced summer training recommended also that he seek professional help during his senior year in college. At the end of his senior year another evaluation of the seriousness of this activity will be undertaken.

On the basis of the trainee's record and his performance in training, it was unlikely that this information would have come to light but for the question raised by his MMPI scores.

Case No. 3

This 20-year-old female college junior was in the advanced training program for juniors and seemed to be getting along fairly well in training, although she was having some difficulties in learning the foreign language. Her peers seemed to rate her in the middle of their own group but surprisingly few of the other trainees seemed to know her.

The MMPI had elevations on the manic depressive, schizophrenic, and psychos-thenia scales, sometimes referred to as the psychotic triad. This indicated the possibility that this girl was functioning well only on the surface, and that when she met with a stress situation she might not be able to handle it successfully.

On the basis of his interviews and observations, the field assessment officer felt that she was making an effort to blend into the group rather than risk engaging in any personal stressful situations. She seemed to be making sure that nobody paid too much attention to her. In an effort to verify the MMPI's results, the assessment officer introduced some stress in an interview and observed that the trainee became anxious very quickly.

As a result, the Final board's recommendation was that this trainee seek psychotherapy at her school. She agreed to this, and an initial report from the school indicated that she is presently under therapy. Whether these problems can be resolved or not will take an evaluation from the school and in her further training upon graduation.

Case No. 4

This 21-year-old trainee came from a rather isolated, smalltown background. He attended three colleges, changing his major from forestry to English and finally dropping out because he was not sure what he wanted to do. He was invited to a rural community development project. Although quiet in classes, he performed adequately in training.

In this case the MMPI first identified the problem that led to his deselection from the program, although no behavior in training set him apart from the others. His MMPI profile shows exaggeratedly high scores on the psychos-thenia, schizophrenia, and psychopathic scales raising the possibility of extreme anxiety and possible psychotic disorganization.

He was referred to the project psychiatrist. The psychiatrist's conclusion was that the trainee evidenced symptoms of latent schizophrenia which posed too great a risk of a psychotic breakdown under the stresses of overseas Peace Corps

service. He was therefore separated from the program, but in view of his failure thus far to manifest any overt psychotic symptoms it was recommended that he be reconsidered after a year and invited again if his activities in the interim were not indicative of emotional instability.

Case No. 5

This 20-year-old man was invited to an agriculture program as a small industries specialist. His performance in training ranged from adequate to outstanding. The staff saw him in a generally favorable light, describing him as competent able, flexible, and willing. His peers also reacted favorably to him.

The CSC report was generally positive. It indicated that the subject had been adopted by an uncle who others saw as demanding more than the subject was able to produce. He, in turn, was seen as responding by working to the best of his ability.

By contrast, the MMPI was indicative of either a psychotic or of an adolescent without focus. The MMPI yielded T scores of 70 or above on scales 4, 5, and 9, indicating an individual who rejects authority and is somewhat disorganized and hyperactive in thought and action. In addition, the relationship of 7 to 8 indicated that the individual may have some "looseness" in thought. These results were substantiated in psychological interview and by other psychological tests which indicated very low frustration tolerance, low superego strength, suspiciousness, insecurity, criticalness, tension, and uncertainty of self.

In view of the discrepancies between performance in training and the psychological evaluations, projective techniques and a psychiatric consultation were requested. They confirmed the presence of a psychotic process in the subject rather than the identity diffusion of adolescence.

Based on the above findings, the subject was separated at the second intermediate advisory selection board for reasons of personality unsuitability. In the exit interview, the professional opinion was shared that the trainee had undergone great perturbation and was just beginning to work it through. This was confirmed by the subject who shared his own concerns about his behavior and the fact that he now had some understanding of a very confused and anxiety-provoking period in his life.

The MMPI made a significant contribution in this case and was protective to the individual. His behavior was such that he might have been selected had we not been alerted to look more closely at his dynamics. To have subjected this individual to additional stress at this period of his life may have resulted in a psychotic decompensation of serious proportions.

GROUP B: MMPI IDENTIFIED A PERSONALITY PROBLEM THAT WAS CONFIRMED BY
OTHER DATA

Case No. 6

This 26-year-old married man with experience as an elementary school teacher was invited to a teaching program.

His MMPI profile looked like that of an effeminate, anxious, obsessive-compulsive type individual who was somewhat depressed and socially introverted. This combination caused the assessment staff to look more closely at his dynamics. In assessment interviews, the field assessment officer found the subject to be rigid, passive, inarticulate, and anxious. He expressed serious concern over the diseases he might contract in an oversea assignment. As a result, he was referred for a psychiatric consultation.

The CSC investigation was consistent with the MMPI findings. The trainee was an elementary school teacher who was described by his principal as "working and playing too hard." Other referents referred to his "compulsion to help," his "introversion," "nervousness," and "short temper." Respondents were also aware of his anxiety over diseases and his "visions of dying of disease" in a Peace Corps assignment.

The subject was psychiatrically disqualified because of his neurotic symptoms. The MMPI had correctly identified the problem and was corroborated by the clinical observations. The wisdom of selecting this trainee out was further validated in the termination interview where the subject and his wife described their marriage as unstable and characterized by bickering and fault findings. They explained that although they had been married 2 years, the marriage had never actually been consummated.

Case No. 7

This Peace Corps trainee was a 24-year-old girl who had graduated from an excellent university. Her college grades were exceptionally high and her references were very favorable.

The field assessment officer interviewed her following his review of the psychological test data which indicated the possibility of emotional instability. The schizophrenic and manic scales of the MMPI were elevated, suggesting that she might behave impulsively with a great flurry of energy and little realistic purpose. In addition, the test data from the Edwards Personality Preference Inventory pointed toward unusual emotional dependency upon heterosexual relationships. During the interview, the trainee disclosed the fact that her mother was an alcoholic of long standing, and her father was an immensely successful architect who devoted all of his energies to his profession.

As her mother's problems with alcohol became more and more serious, her father devoted less and less time to the family. The girl, then, was left to grow up without the emotional support of either parent and the result was a bubbly, vivacious, "everything's grand" sort of person on the outside, but a desperately lonely, insecure, and starved for affection person on the inside. She cried uncontrollably during the better part of two interviews as she told of her unhappiness. Unfortunately, her emotionally deprived life made her particularly vulnerable to anyone who was willing to take advantage of her deep-felt need for affection.

She was referred for psychiatric evaluation, where the fragile nature of her adjustment became even more apparent. At the midboard the psychiatrist indicated that he intended to disqualify her because of the likelihood that she would develop neurotic symptoms under stress of an oversea assignment. Academically, she had done well in the program, but she was strongly rejected by her peers. Rather than wait for a psychiatric disqualification, the board decided to select her out of the program on grounds of personality unsuitability.

Case No. 8

This 23-year-old man was invited to a school construction training program where his performance in training was variable.

His MMPI profile featured a very low score on the K scale, implying emotional bankruptcy. The rest of his profile showed a peak on the depression scale accompanied by elevated scores on the paranoia and psychasthenia scales, suggesting a depressed, somewhat anxious individual.

On the basis of his interviews, the field assessment officer reported the trainee as earnest and unpoised. He saw him as slow, deliberate, determined, and as working hard for modest rewards. In general, he was described as passive.

Faculty predictions of success tended to be unusually low, even in subjects where he was earning good grades. Peer ratings indicated that he was well liked as a person but was not perceived as an individual who would be successful as a Peace Corps volunteer.

The full field investigation indicated that the trainee was somewhat limited in ability and was self-deprecating in his manner. His low self-esteem appeared to be dramatically indicated in two arrests, one as a minor in possession of alcohol and the second for drunkenness on a public street.

Based on the consistency between the MMPI and all other data, the subject was separated from the program for personality unsuitability at the time of the Intermediate Advisory Selection Board. The MMPI contributed substantially to the observation that the subject did not have the resources to protect himself under the rigorous conditions in the host country.

Case No. 9

This 21-year-old girl was invited to an agriculture training program where her performance was erratic. The training staff reported that she had a good deal of ability but was inattentive, uncooperative, and unresponsive to authority. The peer ratings indicated her lack of acceptability to others, thought to be a function of her crude behavior.

The psychological test results were consistent with the behavioral data. The MMPI showed the 9-4 peaks and 2-6 depressions characteristic of manics and acting out psychopaths. In addition, the relationship of 7 to 8 indicated that the subject's intellectual controls were insufficient. Other psychological tests indicated manic behavior, exhibitionism, dominance, and low superego strength.

Psychiatric study resulted in the project psychiatrist recommending disqualification based on the subject's lewd, seductive, and insensitive behavior. No action had been taken on this request at the time of the selection decision.

Her CSC investigation indicated that the subject was often viewed as "immature," "unstable," "unsettled," and "flighty." It confirmed the erratic performance pattern and lack of respect for authority.

Based on the consistency of all of the data, the subject was separated from the program for personality unsuitability at the time of the First Intermediate Advisory Selection Board.

Case No. 10

This 21-year-old girl was invited to participate in a nursing program. In training, her performance was adequate, but faculty evaluations of her probable success as a Peace Corps volunteer were unusually low. She was perceived as insecure about her nursing performance and defensive regarding the quality of her previous nurse's training. In addition, her performance in several other areas was described as variable. Under psychological stress, she developed many physical concomitants, including fainting.

Her MMPI profile was that of an acting out psychopath. The elevations of 4 and 9 combined with the depressions on 2 and 0 and the secondary peak on 6 are classic. In addition, the relationship of 7 to 8 indicates a lack of sufficient intellectual controls and some looseness. The elevation of 3 indicates some tendency to resort to hysterical defenses (such as fainting).

On the basis of his interviews, the FAO described her as a rigid personality, at times very dogmatic and strongly defensive of her views. She showed strong feelings of rejection, of not belonging, and considerable suspiciousness of others. In turn, she reacted with hostility. She seemed to express little warmth in her feelings toward others. At times she was brusque and mocking in manner, particularly in discussing ideas or personalities with which she disagreed. The peer ratings reflected her lack of relatedness, and she was an isolate on every item.

The subject was separated from the program at the time of the Intermediate Advisory Selection Board as unsuitable for Peace Corps service. Her full field revealed a history of instability and erratic behavior as well as a disturbed parental relationship. Based on the MMPI results, the seriousness of the hysterical defenses and the superficial manner of relating to others, it was determined that the subject would not be eligible for Peace Corps service in the future.

Case No. 11

The trainee was 22 years old and was one semester short of a B.A. in history. He had MMPI highs on scales reflecting withdrawal tendencies (Sc) obsessive-compulsiveness (Pt), self-abasement (F), and high activity needs (Ma). The elevation and inter-relationships between these scales tended towards possible schizophrenic tendencies.

On the basis of the MMPI results, the field assessment officer referred the trainee for psychiatric consultation. The psychiatrist found that the trainee was not then psychotic but that his emotionally deprived early life was such as often precedes schizophrenia.

In the following weeks the field assessment officer observed him closely. The trainee evidenced increasingly disordered behavior. He often cut classes. When he did attend meetings he was disheveled and unkempt in his appearance. If corrected, he explained he was sick, did not know of appointments he was to keep, etc. In some instances he told conflicting accounts of his actions to different authorities. He could not relate well with his peers, and he withdrew behind a cloud of excuses at the slightest external pressure.

Because of all these factors, plus resulting poor grades, he was selected out. He was given a time limit for reapplying to the Peace Corps with the hope he would mature and/or seek therapeutic help.

GROUP C: MMPI AND RESULTING ATTENTION CONTRIBUTED TO SELECTION OF A TRAINEE WHO MIGHT OTHERWISE HAVE BEEN SELECTED OUT

Case No. 12

This 21-year-old man had completed 3½ years of college, had been active in field sports, and was interested in working with young people. He was invited to a YMCA training program. His performance during the first part of training was sluggish, obviously poorly motivated, and observations from many instructors were quite negative. Judging by such reports alone, he would undoubtedly have been selected out.

Test data in this particular case were a major consideration in the decision to keep the trainee in the program following intermediate board. All tests showed normal responses. Concern over future goals was indicated, as well as apparent

distrust of "authority." His responses to the incomplete sentence blank were open, straightforward, indicative of great intrinsic motivation to "succeed" in life. The SVIB pattern indicated a high degree of social service interest. The MMPI revealed a fairly normal home conflict pattern with aggressiveness toward authority resulting.

The major effort following intermediate board deliberations was to determine the quality and quantity of this trainee's motivation, as well as his response to "authority."

As training progressed it became increasingly apparent, through personal interviews, written reports and peer statements that his commitment to the Peace Corps, as well as understanding of his personal goal had been greatly enhanced.

On the basis of the test findings, his self-professed growth of determination to succeed if given the opportunity as a PCV, and a positive change during training in his attitude toward "those in charge," board action was to select him for overseas duty as a PCV.

Case No. 13

This trainee was invited to an agricultural extension training project and assigned to a poultry raising specialty for which he had an excellent background of experience.

His performance in course work during training was adequate, in spite of his spotty academic history and the modest academic aptitude shown by ability tests. In the poultry class he was outstanding. Because of his blunt, outspoken manner, both the instructors and his peers in the program reacted strongly to him. He tended to be either rejected as a marginal candidate for Peace Corps service or nominated as outstanding.

His MMPI showed an extreme elevation on scale 4, raising the possibility of an undercontrolled, antisocial mode of adjustment. Scales 2 and 6 were elevated to a degree uncharacteristic of pathological cases, however, and suggested that his aggressive energy was well moderated. His scores on the Myers-Briggs type indicator indicated that he was likely to be a practical, critical, analytic person in his approach to problems.

His life history and the concerns he expressed in interviews with the FAO indicated that he was an adventurous, sociable, individualistic person who, indeed, possessed a considerable fund of hostility but who was quite consciously seeking to expand his awareness of other people through firsthand experience in foreign cultures.

The project psychiatrist interviewed him because of the possibility of poor impulse control raised by the MMPI, but cleared him as an original young man whose considerable aggression was usually directed along constructive lines.

While the selection board was seriously concerned about this trainee's impulsivity and aggressive manner, it was reassured by his agricultural skill and by the favorable aspects of the reports by the FAO and the psychiatrist. He was rated 5 and sent overseas where he has been working successfully for over a year.

Case No. 14

This 24-year-old man was invited to a math-science teaching program. His performance as an undergraduate had been marginal, but after a year of employment as a research engineer he returned to school as a full-time graduate student and teaching assistant. The full field report indicated that he was seen by friends, coworkers, and supervisors as a shy, reserved man who doesn't make a strong initial impression but who is calm and friendly and wears well in the long haul. He was uniformly described as a highly dependable worker.

He made a favorable impression on the FAO at the beginning of the program as a reserved, sober, serious man with strong social service motivation. On the basis of his MMPI profile, however, which featured an elevated score on scale 2 and suggested both a high potential for depression and a tendency to feel isolated and alone, the FAO referred him to the project psychiatrist. The information developed as a result of this early referral possibly saved the trainee from deselection. At the very least, it contributed to a more confident selection decision than would have been made otherwise. The psychiatrist's findings were that depression and isolation were in fact central concerns for the trainee but that the conflicts about his relations with his parents which had aroused these reactions had been largely resolved. The pattern of his life history indicated positive growth away from the self-doubt and uncertainty which had previously limited his behavior.

In training, his academic performance was adequate and he was seen as a conscientious, highly motivated trainee by his instructors. In practice teaching

he was seen as well prepared in his subject but as lacking in force and not projecting himself well. Among his peers he was initially isolated but showed increased acceptance by the end of the program.

The selection board was much concerned about his ability to develop adequate teaching skills and to relate effectively to host country nationals. The board was reassured, however, both by the psychiatrist's testimony concerning his recent growth and potential for further development and by the indications of highly appropriate motivation reported by the FAO. On the latter score, his profile of scores on the strong vocational interest blank (high on math-science teaching and on social service areas in general) supported his own statements in indicating that he would find many rewards to sustain him in the job assignment planned for him. He was selected for enrollment as a volunteer.

Case No. 15

When this young man came to the training program he did not look like a very good prospect. He was quiet and somewhat withdrawn. He was ill at ease and hardly participated in social activity. In an interview, he indicated that he never felt comfortable with people—he always felt left out. He admitted that this had been a life-long pattern with the exception of his last term at college. In that recent experience he felt he had good social relationships. There was real question about how effective he might be with the nationals of the host country since he could not communicate effectively with the other trainees or the staff.

Testing (MMPI, Edwards) confirmed the observations that he lacked aggressiveness in social situations, that he tended to play a passive role and that he had deep feelings of worthlessness. The tests also pointed up his high achievement goals, his willingness to endure difficulties and a stick-to-it-iveness that was likely to be helpful in rough situations. There were also indications of more social sensitivity than he manifested.

At the midselection board it was decided that he be given an opportunity to continue training since these positive aspects of his personality could perhaps be brought out with proper guidance.

In the next several weeks this man "blossomed" and began to show the qualities that were noted only on the tests. His quiet strength showed in innumerable ways. He was willing to put forth extra effort, he was helpful and cheerful under adverse conditions. He began to be more assertive and to take positive leadership roles. It was clear in this instance that the test instruments indicated potential behavior patterns which were not available through direct observation. This man ended training with a board rating of 5. His final selection was made on the basis of his behavior rather than test scores; however, his test scores were extremely useful in helping to decide what his potential was and also to give the staff clues in helping him overcome his sense of inadequacy.

Mr. BERLEW. Mr. Chairman, I wonder if I could elaborate a little bit to Congressman Reuss, to give some idea of those factors which lead those of us who are laymen to agree with Dr. Carp's general conclusions that the MMPI is important.

Sometimes we make management judgments, naturally, that are not based on exhaustive research, but based on the best judgment that we have, based on experience.

I suppose we have had well over a thousand selection boards in the history of the Peace Corps. I have sat on about four of them—as a layman, as a representative of the country program.

I can recall during the course of those four selection boards several cases where the MMPI was a factor in arriving at a decision—either negative or positive—about a particular individual. It was not for me to decide what that MMPI score meant. We relied on the professional judgment in that respect. But this did come into play in making an overall evaluation.

Mr. REUSS. Those cases, of course, as far as you know could have been cases where the evidence of possible psychotic behavior emerged from some part of the training process other than the MMPI.

Mr. BERLEW. Certainly entirely possible, Congressman. That leads me to the second point I wanted to make.

Dr. Carp and his associates have told us—and I have no reason to disbelieve them—that neither the results of the MMPI nor the results of the psychiatric interview, nor the performance during training, are as good a way of determining whether the person is likely to have psychotic tendencies as the three of those combined. I just use those three for an example. They each build on the other, and each complements the other. Therefore, if we are trying to make the effort to find the best way of making this type of judgment, we feel we ought to use all of these procedures, within reason. That is what we have done.

Mr. REUSS. To make my position clear, as I have said, I have no particular difficulty with that third category of using the MMPI as an additional piece of litmus paper after and above those other tests. But what I am still not convinced of is that it is worthwhile giving it to 19,000 people in order to discover case history No. 5 and some four or five other case histories. I am not at all sure that it justifies the universal use of the test which you have been doing.

Mr. BERLEW. I want to be perfectly clear that Dr. Carp's position here is understood. These represent a very small sampling—very small sampling. How many total cases did you look at?

Dr. CARP. I don't know the number; I am probably not going to be popular at the Peace Corps, but I will be popular with myself. If this were the only case that we had ever identified with the MMPI, I would feel it was worth it.

Mr. GALLAGHER. Well, Mr. Berlew, I would like to say that statistically you are bound to get some hits. Even the Mets get a few once in a while. But the thing that I worry about is the inverse ratio of qualified people who may well be prevented from serving in the Peace Corps as a result of this margin of error that you allow or accept under the test. If you take 10 or 11 percent factor, as we brought out before, it may well be there are 4,600 people or so.

Dr. CARP. May I discuss that point just a bit, sir?

Mr. GALLAGHER. Yes, sir.

Dr. CARP. The Peace Corps procedures are set up deliberately to minimize the likelihood that a false positive, an individual getting a poor score or profile on the MMPI, would unjustly or unfairly or unreasonably be eliminated. That likelihood is very, very, very, very, very small, because of all the other elements in the selection process, because such decisions are not based on one individual's opinion, and because the selection process is consecutive, sequential, and deliberative. For example, if I felt that for everyone we identified like case 5 we also prevented 5, 10, or 20 qualified people from going overseas, I would by no means take the position that I do. But if an individual's performance on the test looks deviant, he is interviewed by a psychologist, he is interviewed by a psychiatrist, his behavior and training are very carefully gone into, and there is very little likelihood of this kind of false positive occurring with the Peace Corps' use of the MMPI.

I would like to convince the committee that this is in fact so.

Mr. GALLAGHER. We are very happy to hear your statement. Of course, there has been some expertise involved in challenging this statement you have just made.

Dr. CARP. What I have read in the papers, at least, and the testimony I have had access to, does not really refer to the Peace Corps' use of the MMPI.

Mr. GALLAGHER. It was testing in general.

Dr. CARP. I would like to differentiate markedly between the way we use them and the way X or somebody else might use them.

Mr. REUSS. Yes. If I may speak on that—since I have been pursuing this matter with various agencies—I do want to say that the Peace Corps' use of the multiphasic test is vastly different and less noxious than the use of it by the Department of Labor, to name one, where the application of the test was used without appeal or anything else to keep people from even being accepted for training. As you correctly point out, the most this does is to flag you that something may be worth looking into, and this is, I agree, a vastly different use.

I still think you are in possession here of a questionable and possibly dangerous instrument.

The whole point of my questioning has been—and the questioning of the subcommittee—has been to urge upon you the greatest care, an urging which at least has been in part responded to by the statement Mr. Berlew made here today.

One thought occurs to me.

I do not think that the Peace Corps would suffer a bit if in the interest of practical research you, for a 2-month period sometime, for a class or two of the Peace Corps put the MMPI into cold storage, don't use it as a universal, use it simply where evidence of atypical behavior comes up, anyway.

I have a hunch, based upon the fact that so far I have heard of only one case, case No. 5, which has actually caught somebody, that the dragnet would not otherwise have caught. I have a hunch that this would not impair the quality of young people you are sending abroad with the Peace Corps. You might gain more through the elimination of these questions than you would lose.

Dr. CARP. This is a study that has been suggested. Maybe if we get our research funds back, it might be one that we can carry out in the next fiscal year.

Mr. GALLAGHER. You might have some extra money if we authorized you to do without these tests.

I think we have a vested interest in this test. Question 255 still remains part of the test, "Sometime at elections I vote for men about whom I know very little" and 256, "The only interesting part of newspapers is the funnies."

Since these remain part of the test, I am wondering what kind of response might be required here that would show whether a person is psychotic or adolescent.

Mr. COLLINS?

Mr. COLLINS. I would like to go back to what Mr. Reuss brought up here about when these tests are given. You say they are given at the start of the training. This is after they are on board?

Dr. CARP. Yes, sir.

Mr. COLLINS. Now, their preemployment or standardized or routine investigation has been conducted, is that correct?

Dr. CARP. No. An individual is invited to training on the basis of references, aptitude test scores, academic record, work history, et cetera, where it is appropriate. The civil service background investigation has not been done and is not available prior to invitation.

Mr. COLLINS. You mean prior to the start of training?

Dr. CARP. Once an individual is invited to training and accepts the invitation to training, then we give his name and background to the

Civil Service Commission, and the civil service background investigation is started. Usually this is available either shortly before or many times during the training program itself. But the background investigation is not part of the information we use in deciding whether to invite or not.

Mr. COLLINS. That was going to be my question.

Now, do you take this background investigation into consideration along with your psychological testing?

Dr. CARP. Yes, sir.

Mr. COLLINS. What weight would that have?

Dr. CARP. This is difficult to say.

The chairman of the selection board, the field selection officer, is required to and does in fact read the report of the civil service investigation. He is the only one with access to this particular bit of information.

The statistical weight given to this would be impossible to parcel out. In rare instances the information in the civil service background investigation would be sufficient to clearly indicate that the individual should not go overseas no matter what his performance and training was, and the field selection officer has the authority to make this decision.

In other respects it gives him a pattern or a history of the behavior of the individual to date which is supplementary to the information acquired during the training process.

Mr. COLLINS. Thank you. One more question: When these tests are given, what other tests are given at the same time?

Dr. CARP. The other tests are left to the discretion of the field selection officer and the field assessment officer at the training site.

They include about half a dozen commonly used tests which he may administer without prior approval of the Peace Corps. If there are tests other than this, he must obtain the Selection Division's permission to use these tests. Tests that are not on the approved list.

Mr. COLLINS. I am not speaking just of psychological tests. I am speaking of what other tests are given at the same time. Are they given aptitude tests?

Dr. CARP. No. The aptitude tests are given in the pretraining phase.

Mr. COLLINS. Then this would stand out in my life, if I were an applicant—I would know that I was taking a psychological test.

Dr. CARP. You would know it, because we told you. We do not try to disguise it.

Mr. COLLINS. Am I told that this is not for competitive purposes, but for protective?

Dr. CARP. Right.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. GALLAGHER. Mr. Cornish.

Mr. CORNISH. Mr. Berlew, do you have any figures on the purchase price and the cost of administering and evaluating these tests which you can provide the subcommittee?

Dr. CARP. Yes, sir; we can provide you this. I guess I am told I should not trust my memory when we can get accurate information at a later date. We will provide it for the record.

Mr. CORNISH. We have been speaking of 19,000 trainees. I understand the figure is more like 20,000.

Mr. BERLEW. There have been something like 19,000 or 20,000 persons invited and actually gone to training; 14,000 to 15,000 have successfully completed training.

Mr. GALLAGHER. The other day we were advised there are approximately this year 9,100.

Mr. BERLEW. We expect 9,100 to 9,200 trainees to enter training this year, and they will all take the test; 19,603 trainees have now been in the Peace Corps as of May 1.

Mr. CORNISH. I wonder, Mr. Chairman, if we could insert the cost figures at this point in the record.

Mr. GALLAGHER. I think we should have the total cost figures, in the overall testing procedure, and then the averaged-out cost per trainee on this particular test.

Mr. BERLEW. We would be glad to provide that, Mr. Chairman. (The information referred to follows:)

Estimated cost per trainee of administering and evaluating the MMPI.....	\$6.53
Test materials.....	.08
Scoring.....	.60
Administration.....	.05
Evaluation.....	5.80

The Peace Corps does not have adequate data on which to base an estimate of the costs of any other field selection psychological testing. The estimated cost per trainee of such testing materials and scoring is \$1.54, the yearly and cumulative cost for administering the MMPI to Peace Corps trainees. The MMPI has generally been administered in all Peace Corps training programs, although a few trainees might never have been asked to take it.

As of August 31, 1965, 25,894 Peace Corps volunteer applicants had been registered for Peace Corps training since the Peace Corps began: 915 in 1961, 4,421 in 1962, 4,950 in 1963, 8,080 in 1964, and 7,528 so far in 1965. The annual and cumulative cost for administering the MMPI to all Peace Corps trainees at \$6.53 per trainee would, therefore, be as follows:

1961.....	\$5,974.95
1962.....	28,869.13
1963.....	32,323.50
1964.....	52,762.40
1965 ¹	49,157.84
Cumulative cost ¹	169,087.82

¹ As of August 31.

Two things should be noted about these figures. First, almost 90 percent of the cost of administering and evaluating the MMPI is for the time of the field assessment officer needed to evaluate the profiles. Substitution for the MMPI of a psychiatric interview for each trainee would, we estimate, cost about \$15 per trainee. Furthermore, in the judgment of the psychologists and psychiatrists participating in Peace Corps selection programs, the MMPI is preferable to a psychiatric interview to accomplish the limited but important purpose for which the MMPI is used in Peace Corps selection: helping objectively to identify persons who may have or develop serious personality disorders.

Mr. CORNISH. In Dr. Carp's testimony on Friday, he stated that because the MMPI involves personal matters:

It is only given by the field assessment officer. He, as we have seen, is always a qualified and experienced psychologist. He is trained to respect the confidentiality of an individual's MMPI profile. Only two other persons have access to that profile—the Peace Corps field selection officer, who is also a highly qualified and experienced psychologist, and if the profile suggests that a psychiatric interview is warranted, a medical doctor trained in psychiatry.

I wonder, under your new procedures, whether you intend to maintain that safeguard on persons who actually see the test forms?

Mr. BERLEW. Correct. I think with one exception—the test answer sheets will be sent into Peace Corps Washington where they will be opened by Dr. Carp and other professional psychologists.

Dr. CARP. Not me personally.

Mr. BERLEW. For destruction purposes. They will not be interested in looking at them.

Mr. CORNISH. Now, I am going to pose a theoretical situation here, just to get your reaction to it.

Suppose between the time that a Peace Corps volunteer trainee took this test and the time his test answers were destroyed, that a Federal investigator arrived on the scene and wanted to examine the answer sheet. What would be the position of the Peace Corps in that instance?

Mr. JOSEPHSON. Mr. Cornish, if I may answer that question.

Mr. CORNISH. Yes, sir.

Mr. JOSEPHSON. We take the position that files such as the confidential psychological file developed by the psychologist during training, the medical file developed by the doctor during training—since so often they involve matters that are of a personal and private nature, they may even involve information that has been given under circumstances in which the customary privileges apply, is not available to investigators.

You may recall I even made the point that when the Peace Corps considers hiring someone who has been a volunteer, we do not permit those responsible for that decision to have access to any of this information.

Mr. CORNISH. What I am trying to get at here is actually to see there is as little chance as possible of anyone violating the integrity of these answer sheets. Am I correct in that assumption? Can you make that assurance?

Dr. CARP. Yes, sir.

Mr. BERLEW. Yes, sir.

Mr. ROSENTHAL. May I ask this one question? Supposing an investigator for an unnamed House committee came around and wanted to see the answers, what would you do?

Mr. JOSEPHSON. Well, that raises one of the age-old matters of friction between the executive and legislative branches. We, I think, would make an effort to deal with a responsible member of that committee, probably the chairman, to ascertain the reason for the inquiry. I think we would endeavor to discover if the information could be made available to the chairman personally on a basis that could insure its confidentiality.

Mr. ROSENTHAL. Has this ever happened?

Mr. JOSEPHSON. I can recollect one case in the history of the Peace Corps in which this has happened, and we were able to work out arrangements with the committee which satisfied us that the confidentiality of this information would be respected, and that the committee had a good purpose in seeking the information.

Mr. ROSENTHAL. Did you advise the Peace Corps applicant that this procedure was being entertained?

Mr. JOSEPHSON. One of the factors which led us to make that decision was that it was she who had requested the inquiry. If that had not been the case, I doubt if we would have decided it this way.

Now, if it did not work out, as I am sure you are familiar both President Kennedy and President Johnson have made it clear that questions involving—and here I use a phrase that I hate to use but I must use it—executive privilege are to be decided by them. If we had difficulties in this area, we would refer the matter to the White House.

Mr. CORNISH. Did you wish to make a further comment on that?

Mr. BERLEW. No, I think that covers our position.

Mr. CORNISH. During your attendance on Friday, we got into quite an exchange, quoting George Bennett, president of the Psychological Corp., and we traded quotations. I just want to give you another one today, to get your reaction to it, especially Dr. Carp.

It seems that in June of 1959, when Martin L. Gross, who also appeared before the subcommittee, wrote an article in *True* magazine, criticizing personality testing, that sparked a letter to the editor from Mr. Bennett, who is president of the Psychological Corp. In this letter he states that in his opinion, and I quote:

Where there is an incentive to give other than truthful answers, the process deteriorates into a guessing game, the outcome of which is dependent upon the subject's recognition of the desirable response and his willingness to misrepresent himself.

I wonder if you would care to comment on that, in light of the trainee who comes and takes the test and examines each question in the light of how he thinks the test giver would really like him to answer the question, so that it would not reflect unfavorably on him.

Dr. CARP. There is very little doubt in my mind that the very bright, reasonably bright individual, who takes the test with this attitude could create a false impression. I am not sure at the moment—it is not unlikely that he would be picked up on the L scale and the K scale, the validity scales of the test.

Mr. GALLAGHER. What are those scales?

Dr. CARP. The lie scale and the correction scale. But the whole atmosphere of Peace Corps testing as opposed to other situations is that this is an opportunity for the individual to help both himself and the Peace Corps to find out if this is in fact the kind of thing that he should do.

I am well aware of the problems of faking in the traditional selection competitive situation, and I would tend to agree with Dr. Bennett. The Peace Corps situation is more akin to the traditional counseling situation, where both parties are trying to find out what is true or what is best for the individual, and the motivation is not to deceive but to inform.

Mr. CORNISH. Well, then, I gather from your statement that hopefully if the trainee did manage to answer the questions in such a sequence that he was able to give a false impression, that perhaps his real nature might be revealed in some of these other procedures that you follow to check his behavior and personality background.

Dr. CARP. Correct.

Mr. CORNISH. Thank you.

Mr. GALLAGHER. We left hanging an inference the other day which the Chair would like to correct.

This was your statement, doctor, the other day.

Mr. Shriver has already described generally the Peace Corps' selection process. Let me turn to the use of personality inventories.

The selection of people is a young science. No one selection tool even begins to approach perfection. That is why the Peace Corps' selection is deliberately structured to bring to bear many different selection tools. As Mr. Shriver testified, no one element of this process is determinative, but each makes a definite and distinctive contribution to the process.

In our judgment, the Peace Corps would be derelict in its responsibilities if its selection process deliberately failed to employ any one element of that process, including personality inventories properly used by qualified persons. Indeed, in 1961, the House Foreign Affairs Committee specified that during Peace Corps training each applicant will receive "psychological and psychiatric tests."

As one who was on the Foreign Affairs Committee then and now, that is not entirely accurate. What we did was to print up the recommendations of the agency, without passing judgment on them to provide information to the House of Representatives. The quote that appears there, "psychological and psychiatric tests" is one that appears from the committee report which merely printed the recommendations of the Peace Corps.

The House Foreign Affairs Committee did not prescribe psychological and psychiatric tests. I would like the record to show that clearly.

Mr. GALLAGHER. Could the Peace Corps apprise this subcommittee of cases in the future where someone has refused to answer the questions and then has not been eliminated from the program?

Mr. BERLEW. Yes, we will do so.

Mr. GALLAGHER. We would like that. And secondly, it is our hope that while you have made great progress, and we certainly commend you for eliminating 185 of these questions, there are still 371-some-odd that are still in there, and perhaps you could take another chop at most of these questions in the future as you reevaluate the entire worth of the questions that do remain.

The Chair would like to commend the Peace Corps for taking such major steps to protect the right of privacy. As I understand it, no individual trainee will be compelled to answer any of these questions in the future.

Mr. BERLEW. That is right.

Mr. GALLAGHER. And if he does consider this an invasion of his privacy, this will not be used as adversely against him in his desire to serve.

Mr. BERLEW. Yes, sir; that is correct.

Mr. GALLAGHER. The Chair feels that the Peace Corps has made a major step and has taken many precautions that should serve as guidelines in the future for the protection of an individual's privacy.

The problem that we have been concerned with is that these tests work on a norm and are graded in a variation from that norm. They may indeed be helpful in deciding the directions of particular groups, but in my opinion, when you get right down to the individual, I seriously question the validity of their use by the Government.

We are here today, however, not to question the validity of the test as an aid to psychological or psychiatric assessment of an individual. This subcommittee is interested in the protection of the individual and his privacy. From that point of reference, the Chair would like to compliment the Peace Corps and the director, Mr. Shriver, and you gentlemen who have appeared here today for the reforms which you have instituted to protect the individual and his privacy.

Are there any further questions?

Mr. ROSENTHAL. The only thought that I have, Mr. Chairman—I concur fully in everything that you have said, and I want to commend the chairman for taking a prodigious leap forward in this special inquiry. I want to specifically commend the members of the Peace Corps who, in my judgment, have entertained a rather enlightened view about the whole subject—certainly more enlightened than other witnesses from other Federal agencies we have had.

What I worry about constantly is not only the question of invasion of privacy, but the fact that we are getting a mechanical society, that we are trying to make everybody some deviant from the norm, that we are trying to push the whole mass of the American public into a funnel, push them all into the wide end of the funnel and have them come out pretty much the same from the narrow end of the funnel.

I doubt if this is really what any of us—obviously neither you nor I want this.

As President Kennedy said, we ought to make this world safe for diversity. I think this applies to our domestic society as well.

So that these tests that relate little differences from the norm kind of scare me, and I hope we don't develop a mechanical kind of society where you are going to push a button and a man is going to respond in some way that you have already predicted in advance and that if he does not he won't be chosen for an important role in our society.

Dr. CARP. We certainly share your concern, and there are many debates and discussions of this in the Peace Corps.

We have been criticized, I think unfairly, internally for producing in our jargon the bland volunteer. So we are now making a special effort to insure that the widest variety of individual differences can, in fact, succeed or have a chance to succeed in the Peace Corps.

Again, in our own jargon, here we talk about the high-risk, high-gain individual. And this is the one that we are looking for. We are not looking for the mediocre or the norm.

I think Mr. Berlew has had more contact with this particular concept and may want to add a few remarks of his own.

Mr. BERLEW. I just wanted to say that anyone who has had the opportunity of dealing with 300 volunteers overseas would not be too concerned about their conforming to any norm. I mean that quite seriously. It is a very interesting and very enlightening experience. But it is not a normal type of experience.

Mr. ROSENTHAL. You see—when we originally started, we acknowledged, all of us, that the Federal Government really sets the tone for society. If the Federal Government permits incursions and invasions into privacy, all the other organizations, commercial organizations, are going to think this is a standard that they can follow. So that we have an additional responsibility, beyond efficiency within the immediate organization, which is to set this tone or standard of constitutional preservation, this deep dedication we have to the Constitution.

Thank you very much, Mr. Chairman.

Mr. GALLAGHER. Thank you, Mr. Rosenthal.

It may well be that if some of the campuses do run out of programs to protest, this might be a good start for another march. [Laughter.]

Dr. CARP. We understand there were pickets marching outside the American Psychological Association Building. [Laughter.]

Mr. GALLAGHER. I am glad that the rippling effect of the subcommittee is streaming in the right direction. [Laughter.]
(The following article later appeared in the New York Times.)

[From the New York Times, Sept. 5, 1965]

PEACE CORPS PSYCHIATRIC TESTS CALLED ESSENTIALLY IRRELEVANT

(By Natalie Jaffe)

CHICAGO, September 4.—Psychiatric evaluations of the mental health of Peace Corps volunteers were found to be essentially irrelevant in predicting the young teachers' actual performance in Africa.

The American Psychological Association, at its 73d annual meeting here, heard Dr. M. Brewster Smith of the University of California outline today his studies of the first group of Peace Corps teachers in Ghana. Dr. Smith said the mental health stereotype of the sociable, self-confident, well-rounded, well-adjusted Peace Corps worker may have to be abandoned as a measure of competence in favor of more sensitive judgments of commitment and interest.

"The current preoccupation with identifying the disturbed puts to single-minded an emphasis on one set of liabilities without attending to assets appropriate to a job," he said.

EARLY ASSESSMENT

"So long as the volunteers were competent teachers and interested in Africa, their quirks didn't matter," Dr. Smith said in an interview after his address.

He based his address on a study of 45 volunteers, both before and after their 2 years of teaching in Ghana, conducted under a contract with the Peace Corps.

Dr. Smith, a psychologist, is a fellow of the Center for Advanced Study in the Behavioral Sciences at Berkeley, and a special research fellow of the National Institute of Mental Health.

While the volunteers were in training at Berkeley, each was seen in two 50-minute interviews by seven, psychiatrists from the Langley-Porter Neuropsychiatric Institute.

On one of the predictions they made, called psychological effectiveness, high ratings were given to "the optimally adjusted personality as viewed by clinical psychologists—what amounts to a mental health stereotype," Dr. Smith said.

INTERVIEWS IN GHANA

After the volunteers had been in Africa for a year, Dr. Smith and an associate Dr. Raphael S. Ezekiel of the University of Michigan, went to Ghana and held long, informal interviews with the young teachers at their schools.

The psychologists made another trip at the end of the second year. Both sets of interviews were recorded.

In the interviews, the volunteers discussed their jobs and how they felt about themselves and Ghana.

Back at Berkeley, Dr. Smith's research teams analyzed the interviews and broke them down into components—65 describing personal attitudes and 64 describing performance inside the classroom and out. These components were subsequently rated by 12 advance graduate students in psychology who had never met the young teachers.

"The psychiatrists' mental health ratings had a close to zero correlation with our criterion measures of competent performance," Dr. Smith reported.

TEST DISCREPANCIES

He said he found the discrepancies "not surprising, in view of the psychiatrist's professional training, their responsibility for weeding out disqualifying pathology, and their essential ignorance of the situations the volunteers faced."

No one, even in the Peace Corps administration, he added, knew exactly what was in store for the volunteers when the program first began.

He emphasized that since the final evaluations were based mainly on interviews with the volunteers themselves, the comparisons of prediction and performance could be challenged for their objectivity.

But Dr. Smith said he was "well satisfied" with the honesty and informality of the interviews.

As an example of "one splendidly successful volunteer," Dr. Smith described one young man who failed to impress anyone at Berkeley.

"He was quiet, a loner, not interested in girls and socially awkward. But he got to Ghana and discovered he had a vocation for teaching," the psychologist noted.

"The experience even carried over," Dr. Smith added. "He's now working in a special field of education here and is very effective. What we had missed was his readiness for commitment. It doesn't matter that he isn't hail fellow well met."

Mr. GALLAGHER. The subcommittee stands adjourned, subject to the call of the Chair.

(Whereupon, at 3:50 p.m. the subcommittee adjourned, to reconvene subject to call of the Chair.)

SPECIAL INQUIRY ON INVASION OF PRIVACY

WEDNESDAY, JUNE 23, 1965

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:15 p.m., in room 2203, Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman of the subcommittee) presiding.

Present: Representatives Cornelius E. Gallagher, Benjamin S. Rosenthal, and Frank J. Horton.

Staff members present: Norman G. Cornish, chief of special inquiry; Miles Q. Romney, associate counsel, Government Operations Committee; and Raymond T. Collins, minority professional counsel.

Mr. GALLAGHER. The subcommittee will come to order. I am authorized by my two colleagues, who are tied up on the floor and will join me, to start our hearing in the interest of time, and the fact that we have some distinguished witnesses here today whom we do not wish to detain longer than necessary. The Chair has a brief statement that he would like to make at the outset.

This hearing is a continuation of a special inquiry under the House Committee on Government Operations into the subject of invasion of privacy as it is related to the efficiency and economy of certain Federal investigative and data-gathering activities. Today we will take a look at the 1964 Census of Agriculture, especially that section which requires farmers, under penalty of law, to answer detailed questions about their outside income and provide the same information for all persons living in the farmhouse. Prior agricultural censuses have not asked for such information, although less detailed information on personal income has been sampled in the regular census covering the general population.

The committee's interest in this subject dates back several months. Last year, it received a complaint from a Pennsylvania farmer who objected to a new section of the farm census questionnaire because it sought information on the outside income of everyone living in the same house as the farm operator. The farmer who wrote the subcommittee said he thought questions about farm income were proper, but details about his outside income constituted an invasion of privacy in his view.

Section 11 of the 1964 Census of Agriculture, which was sent to a 20-percent sample of all farm operators plus operators of all farms of 1,000 acres or more, asked for the following information regarding each person 10 years of age or older living in the farmhouse:

1. The total wages or salary, commissions, and tips from all jobs off the farm before taxes and deductions.
2. Total income from any nonfarm business or professional practice after business expenses.

3. The total of all social security payments, pensions, veterans' payments, unemployment compensation and welfare payments.

4. The total of all rent for farm and nonfarm property, interest, dividends, soil bank payments, oil lease, and miscellaneous income from other sources.

In addition to information about income, the farm operator also had to provide the ages, the amount of education, and the number of days worked off the farm for all persons living in the farmhouse. Presumably, if he did not know the answers from his own knowledge, he had to ask the persons involved to give him the information.

I am sure that many persons would not object to this. On the other hand, I am equally certain there are persons who would. Privacy is a relative thing. Each person makes his own decision as to what personal information he will share with another; and, as we all know, this varies greatly, depending on the relationship of others and the circumstances in which the information is sought and given.

In my opening statement at the start of this special inquiry early this month, I expressed the hope that the Federal Government would take the lead in helping to protect the right of each individual to decide himself what he wants to keep private. Ordinarily, he should not be put in a position of being forced to give information which may be no one's business other than himself. Moreover, there is the important question whether the Government should, as a matter of policy, ask others to invade the privacy of individuals even though the information may be valuable and necessary to the Government. It is usually possible to ask the person directly involved, instead of someone else. Procedures could presumably be worked out to insure and facilitate this. They could make it crystal clear that if any person living in the farmhouse objects to giving the farm operator the information, he would be welcome to file it separately and away from the eyes of others.

The Pennsylvania farmer who complained to the subcommittee also indicated he felt the detailed information sought on outside income was beyond the needs of the farm census. This, I am sure, is a debatable question, but should be given consideration. Perhaps the Government could well do without these details and content itself with a total figure for outside income alone. Perhaps not. Our inquiry is trying to emphasize that the Government should weigh the need for information against protecting the right to privacy. This is a delicate balance sometimes. But the measure should be taken, deliberately and consciously.

To discuss these questions, the special inquiry has invited leading officials of the Bureau of the Census, the Department of Agriculture, and the Bureau of the Budget. We welcome them and hope, that by working together, we can perhaps do more to preserve the right to privacy without detriment to the legitimate needs of the Government for information.

Now the Chair would like to call, and ask that they testify together, Mr. A. Ross Eckler, Acting Director, Bureau of the Census, Department of Commerce; Mr. C. Kyle Randall, Chief of the Farm Income Branch, Economic Research Service, Department of Agriculture; and Conrad Taeuber, Assistant Director, Bureau of the Census. I would also like to insert in the record at this point the text of section 11 of the 1964 Census of Agriculture questionnaire:

Section 11.—PERSONS LIVING IN HOUSE OF FARM OPERATOR

333. We would like to ask you for a list of and several questions regarding the persons now living in the house in which you live. First, we would like to have the name of each person now living in the house in which you live. (Instructions: List the name of the person in charge first and then other persons living in the house. If the place is operated by partners, enter the name of the partner in Column 1 and write "partner" in Column 2 and list after the name of the partner, the name of each person living in the house in which the partner lives.)

Answer these questions for each person

Name (List person in charge first. Include everyone who usually lives in the house in which the farm operator lives. Do not include college students away at school, persons away in the Armed Forces, and persons away in institutions.)	Relationship to person in charge: (Write wife, son, daughter, father, hired man, partner, etc.)	Sex? (Write M for male and F for female.)	Age at last birthday	What was the highest grade (or year) of school ever completed? (See instructions above.)	How many hours did this person work on this place at farmwork or farm chores last week? (6)	On how many days did this person work off the place in 1964—		How much did this person receive or will he receive in 1964 from—					
						At farmwork or another farm? (7)	At nonfarm work? (8)	Wages or salary, commissions, and tips from all jobs before taxes and deductions, etc. (Do not report income from this farm.) (9)	Working at own nonfarm business or professional practice (report net income after business expenses)? (10)	Social Security payments, pensions, veterans' payments, unemployment compensation, and welfare payments? (11)	Rent for farm and nonfarm property, interest, dividends, Soil Bank payments, oil leases, and other sources? (12)		
V01	Person in charge				None			None	\$	None	\$	00	V01
V02									\$		\$	00	V02
V03									\$		\$	00	V03
V04									\$		\$	00	V04
V05									\$		\$	00	V05
V06									\$		\$	00	V06
V07									\$		\$	00	V07
V08									\$		\$	00	V08
V09									\$		\$	00	V09
V10									\$		\$	00	V10

Mr. GALLAGHER. Gentlemen, under the rules of the committee I would ask you to be sworn. Raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth so help you God?

Mr. ECKLER. I do.

Mr. RANDALL. I do.

Mr. TAEUBER. I do.

Mr. GALLAGHER. Thank you. Please be seated. The Chair welcomes you gentlemen. We appreciate the cooperation we have received from your Departments. Please proceed.

TESTIMONY OF A. ROSS ECKLER, ACTING DIRECTOR, BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE; ACCOMPANIED BY C. KYLE RANDALL, CHIEF, FARM INCOME BRANCH, ECONOMIC RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE; AND CONRAD TAEUBER, ASSISTANT DIRECTOR, BUREAU OF THE CENSUS

Mr. ECKLER. Thank you, Mr. Chairman. I should also like to introduce my colleague, Dr. Conrad Taeuber, who is our Assistant Director for demographic fields.

Mr. GALLAGHER. You are welcome, Doctor.

Mr. ECKLER. We appreciate the very balanced statement with which you started the presentation, Mr. Chairman, and with your permission we will read our own statement prepared in response to your inquiry.

Mr. GALLAGHER. Please proceed.

Mr. ECKLER. We welcome the opportunity to appear before this subcommittee and to discuss with you some of the questions which have been raised concerning the census of agriculture. The Bureau of the Census is continually mindful of the questions that may be raised concerning its efforts to provide information that is needed by Government, business, and all other agencies and persons concerned with the functioning of the American economy.

Information concerning agriculture has been collected since 1840. The growing need for such information led to the establishment of a separate census of agriculture, and, beginning with 1920, Congress put this census on a 5-year basis. With the rapid changes that are taking place in American agriculture, there have been many new demands for information for the census. The growing concern with farm incomes and the welfare of farm people has led to increasing need for information relating to the incomes of farm families. Although there has been a growing degree of commercialization and specialization in agriculture, with production increasingly concentrated in relatively large units, there has also been a trend toward combining living on a farm with work off the farm. Sometimes nonfarm work is done by the operator himself, sometimes by other members of the family, who may bring in more cash than is received from the sale of farm products. In a recent report on the expanding and the contracting sectors of American agriculture, the Department of Agriculture states:

The minimum size of farm necessary for economic survival would be considerably larger than it now is if it were not for an increasing reliance of farm operators on incomes from nonfarm sources. In 1959, nonfarm income accounted for about 20 percent of the total income of farm operators in the expanding sector, and nearly 60 percent of that of operators in the contracting sector.

For some time censuses of agriculture have included a question which asked the operator for the number of days he worked off the farm during the year preceding the census. This provided only a part of the information that was needed and users of the census began calling for more information on this aspect of farm life.

The 1950 Census of Agriculture and the 1950 Census of Population and Housing were taken at the same time. As part of the tabulation program, it was possible to combine information on income and economic activity of farm people from the census of population with information from the census of agriculture. The results proved so useful to Government agencies, farm organizations, and others interested in agriculture that the Bureau of the Census was urged to repeat this special tabulation following the 1959 Census of Agriculture and the 1960 Census of Population and Housing.

When plans were formulated for the 1964 Census of Agriculture, careful consideration was given to the fact that if information concerning the nonfarm activities and income of farm people were to be available, it would have to be collected as part of that census. The desirability and feasibility of adding these questions was carefully reviewed, as were all other parts of the 1964 census, with an advisory committee which consisted of representatives of the following organizations: American Farm Bureau Federation; National Council of Farmers Cooperatives; National Grange; National Farmers Union; National Association of State Departments of Agriculture; Farm Equipment Institute; Association of State Universities & Land Grant Colleges; Agricultural Publishers Association; American Petroleum Institute; American Farm Economics Association; Rural Sociological Society; American Statistical Association; and U.S. Department of Agriculture.

In addition, a technical subcommittee was established, consisting of representatives of the U.S. Department of Agriculture and the Bureau of the Census, to give careful consideration not only to the needs for the data, but also to the best means of obtaining them.

It was decided that the questions on income included in the 1964 census should follow as closely as possible the pattern of questions used in the 1960 Census of Population. It was recognized that some modifications would need to be made in order to take into account the special circumstances of farmers. The Bureau's experience in collecting income data over many years has shown that there is a danger of forgetting relatively infrequent or incidental items, and that the quality of the income data is improved if the questions are formulated in a way that helps the respondent remember by inquiring specifically about a number of sources from which income may be secured. Accordingly, wages or salary are distinguished from income from a person's own nonfarm business or profession, and these, in turn, from other sources of income. For most people these other sources include social security payments, pensions, veterans' payments, welfare payments, and the like, but in the case of farmers there may also be income from rental of farm or nonfarm property, soil bank payments, oil leases, and similar sources. Therefore, it was decided that these latter should be listed separately. However, the farmer was asked to report only the total for each of the four major types of sources.

From our experience in censuses and surveys, we have found that it is necessary to collect information about each member of a house-

hold, rather than asking one person for summary figures about all members of the household. We recognize that by dealing with each member of the household we are including lodgers and other persons who are not members of the operator's immediate family. However, the number of these persons is very small. Only about 3 percent of farm families have such persons living with them. We would be receptive to a suggestion that persons who are not members of the farm operator's family be excluded from this part of the census.

Census law provides that respondents must answer questions on the census form fully and truthfully to the best of their ability and, also provides assurance that any information given to the census must be accorded confidential treatment. The instructions to enumerators in the 1964 Census of Agriculture provided that if a respondent was unwilling to give the information to the enumerator, he might give it to the crew leader, or send it directly to census headquarters. In the 1960 Census of Population, we had made arrangements under which persons could supply income information directly to the Bureau if they were hesitant to give it to the local enumerators. It would be feasible to make such provisions for direct reporting to the Bureau more explicit in the next census of agriculture, if the members of the subcommittee feel that it would be useful to do so.

Mindful of the demand on the public for information, the Bureau of the Census has continually sought methods for reducing the burden without significantly impairing the value of the statistics. In accordance with the provisions of the basic Census law, title 13, United States Code, extensive use has been made of sampling. The data called for in section 11, along with sections 9, 10, 12, and 13, of the 1964 Census of Agriculture are collected from a sample which includes all farms with 1,000 acres or more, and 20 percent of all other farms. As in other censuses and in surveys, the selection of the sample farms was done in an entirely objective manner.

We are keenly aware of the fact that a census can be taken only with widespread public cooperation. This means that the questions that are asked must, on the whole, appear to the respondent to be reasonable. Regardless of the questions asked, occasional objections and criticisms are to be expected, but we have been gratified to find that the objections are very infrequent and that in most cases persons who initially objected to giving the information do provide it when the purpose and character of the census are more fully explained to them.

The Bureau of the Census has given considerable attention to the statistical use of administrative records in lieu of collecting data directly. We have also found that self-enumeration is often as effective a method for uses in censuses. We plan to study intensively the use of these methods in the next census of agriculture.

Our advisory committee consists of representatives of farmers and of organizations that serve farmers, as well as statisticians, economists, and other professional workers who make use of the data. We try to find a balance between the needs for data and the problems of the persons who are expected to supply the basic information. We would welcome the committee's suggestions on better ways of meeting these dual objectives. Thank you, Mr. Chairman.

Mr. GALLAGHER. Thank you very much, Mr. Eckler. Mr. Randall, would you care to give your statement before we start the questioning?

Mr. RANDALL. Thank you, Mr. Chairman.

This statement refers to the need for questions on off-farm income, section 11 of the 1964 Census of Agriculture.

Rapid changes are occurring in the structure of American agriculture and in the income of farm people. One of the significant changes is the increasing importance of nonfarm income of the farm population. It is clear that for many farm people, off-farm income rather than farm income, determines their income status. In 1964, it is estimated that on a national basis, nonfarm income of farm people totaled \$6.9 billion and accounted for approximately one-third of the personal income of the farm population.

In preparing estimates of income from farming, we have a rather comprehensive statistical system of regular reports on production, marketing, and prices of farm production from the Statistical Reporting Service. I hasten to add, however, that these reports are highly dependent on benchmark data from the Census of Agriculture.

In making estimates of the nonfarm income of farm people, the basic data are much more limited. We start with a limited amount of benchmark data obtained through censuses and sample surveys. From these, we make annual estimates on the basis of changes in related statistical series.

This brings us to the question of why it is important to obtain information on the different components of off-farm income of farm people rather than a global total. We need the information on the components separately because these components do not necessarily all change from year to year in the same fashion.

It should be noted that information on income of farm operators from sources other than the farm operated was obtained in some detail for 1955 and 1960 through census sample surveys. The data obtained for the four components included in section 11 of the 1964 Census of Agriculture will provide an additional benchmark and materially improve the basis for annual estimates in the intercensal years.

In order to make good estimates of the total in years when sample survey or census data are not available, we need to make separate estimates for each of the components. For example, wages and salaries account for a substantial part of the total amount of off-farm income. We estimate changes in this component on the basis of changes in wages and salaries generally. Different series are used to estimate changes in the other components of off-farm income. Making separate estimates for the components and adding them together results in a better estimate than would attempts to estimate changes in the total with no information on the components.

I mentioned censuses and sample surveys as the only source of benchmarks for these kinds of data. I should qualify that by saying the census of agriculture is the only source that provides the kind of geographic detail that is needed, particularly in relation to farm poverty areas. It is only from the census of agriculture that we can obtain data on off-farm income in relation to other important farm characteristics.

There is a general consensus that aggregate farm income statistics are not enough. Decisions on policy for commercial agriculture and programs for farm and rural people require accurate and representative information on the income of people on farms classified by size of operation and efficiency.

In summary, accurate estimates of income of the farm population including income from off-farm sources, are important tools in making decisions on present and future policies for agriculture including policies regarding opportunities for all people in rural areas. The relationships between income from farming and nonfarm sources in relation to the size and other characteristics of the farming operation are important aspects of the information. Data on the important components of off-farm income separately provide a better basis for estimating off-farm income for years other than census years than would a single figure for off-farm income. The census of agriculture provides a better source for obtaining these data in the detail that is needed than would any other alternative that is now available to us. That completes my statement, and I thank you, Mr. Chairman.

Mr. GALLAGHER. Thank you very much, Mr. Randall. Do you have a statement, Doctor?

Mr. TAEUBER. No, sir.

Mr. GALLAGHER. One of our concerns, and perhaps you touched on it in your statement, has been the placing of a person on a farm in a very awkward position, whereas he must relate very intimate details to the head of the household or the head of the farm. We would have a suggestion to make, and that would be that if this information is required, and is legitimate-type information, which we don't question at this point, whether or not it would be possible for him to mail this information directly to the Department rather than have it handled through several people on the farm.

Therefore if you do have a lodger or someone who lives on a farm who might want to cooperate but at the same time not fully disclose his position, would it be possible that he would be able to mail his financial statement, if that is required, directly to the Bureau.

Mr. ECKLER. Mr. Chairman, that would be a possible arrangement for future censuses. As we noted, the enumerators were instructed respecting hesitation on the part of families to report in the way that we suggested. We did not have a form made available for the purpose. This could be provided, so that anyone in any case where a question was brought up, we could carry out this procedure.

We did something like this in the 1940 Census of Population, where income was first collected, and people were able to report directly. I would note that this is a little more expensive procedure, because it involves more paperwork and special handling, but we too are concerned with being responsive to the protection of individual privacy where it is a problem, and we think if there would be relatively few cases that would take advantage of this arrangement, that we can do that and would be glad to have your recommendations in that direction, Mr. Chairman.

Mr. GALLAGHER. The Chair would like to make that recommendation, even though it might entail a little additional expense. The expense would serve a constitutional purpose in that that person who would be affected by it would be entitled to the same treatment as the head of the farm for which the money is being expended. Therefore one of the great concerns that we have is that in the interests of efficiency and expense, we sometimes are prone to violate the privacy of, as you point out here, only 3 percent of the farm families who have such people living with them.

Even if it was one person, I think that we have a right and a duty to protect that individual person. So the Chair will be very happy

if we could make arrangements to adequately protect people who feel that it is their business, and their business only, as to who this information is passed along to, and who also have a desire to cooperate with the Government.

Mr. ECKLER. We will take that into account in planning our next census, Mr. Chairman.

Mr. GALLAGHER. In the 20-percent sample which involves section 11 of the census questionnaire, were there any particular States selected for this purpose?

Mr. ECKLER. No, sir.

Mr. GALLAGHER. And if so which ones were they?

Mr. ECKLER. This was 20 percent distributed throughout all the States. This is one schedule in five, so it was not concentrated in particular areas but was intended to be the most efficient 20-percent sample we could devise, and therefore was very widely distributed geographically.

Mr. GALLAGHER. And all States were included?

Mr. ECKLER. Yes, sir.

Mr. GALLAGHER. You mentioned the review process regarding questions before they are approved for inclusion in the farm census. What consideration is given to whether an individual question constitutes an invasion of privacy? What is the extent of concern in this area?

Mr. ECKLER. I think we recognize, as you say, privacy is a relative matter. Your statement I think put that very well. And almost any question will be regarded as an invasion of privacy by a few people. There is no doubt about that. So that we know that it is not possible to devise a census which does not have an occasional objection.

One of the factors in planning any census is the experience of the past, and we tend to look at the questions which are used in the preceding census as our general guide to the kinds of information that might be considered for the forthcoming census.

Now in the case of Agriculture, where you have an economic activity that is changing quite substantially, the Department of Agriculture is even better aware of that than we are, certain types of questions which would have been included in earlier censuses are no longer needed, and certain new ones are required.

We are particularly sensitive I think to the need for one person to report on information that he has to collect from someone else. This kind of question comes up frequently in the work that we do other than our censuses or in surveys, so that if it is the kind of information which the head of the household would not know, would have to ask from nonrelated members, there is always some sensitivity involved in this.

As we pointed out here, it was a very infrequent case involving 3 per 100. We are moving toward getting a greater proportion of the information filled out by the person himself.

We are making greater use of forms which can be sent out on a mail basis and filled out by the individual, so that this we believe gives a greater chance for a response from the individual, and has the element of protecting privacy and also has the element of getting more accurate information because the individual is better able to report than someone else for him.

So we do give a good deal of consideration to this matter of invasion of privacy, and the kinds of questions which we think will raise serious objections. Is there anything you would like to add to this, Dr. Taeuber?

Mr. TAEUBER. If I could, Mr. Chairman, just point out that this advisory committee to which reference was made also includes some farmers, and I recall very well that a number of times in the discussions in the committee some member of the committee would turn to another member of the committee and say, "As a farmer, you are going to have to fill this out. Would you be willing to do so?" The representatives from the farm organizations would be expected to bear this element in mind, if we should happen to fail.

While Dr. Eckler was talking, my mind went back to some of the advisory committee meetings, and I think if you could have been present you would have agreed that to some extent, perhaps not as fully as is desirable, but to some extent this question kept being raised formally in the discussions. Many questions that were proposed did not make the grade, in part because there was a feeling this was not a proper type of question to put in this setting of a census of agriculture where the replies are compulsory.

There was no question the information might be desirable. It was argued vigorously at times that it would be desirable. But this was over the line where the committee felt, and we felt, that we had any business to put the farmer in the position of having to answer the questions.

Mr. GALLAGHER. When you make a recommendation, and you do have a consensus of the advisory committee, is the question or the form of question subjected to a reviewing authority before the questions are made part of the questionnaire that people are compelled to answer?

Mr. TAEUBER. The determination in the first instance is made by the Director of the Bureau by delegation from the Secretary of Commerce, and then, as is true of all public use forms, in compliance with the Federal Reports Act, these are reviewed by the Bureau of the Budget, the Office of Statistical Standards before we are in a position to say that this is a part of the census questionnaire.

Mr. GALLAGHER. Then you allow the question of privacy really to be reviewed by the Bureau of the Budget?

Mr. TAEUBER. This I am sure is one of the considerations that they would raise.

Mr. GALLAGHER. I would think they would be more interested in the budgetary aspects than of the privacy of individuals.

Mr. TAEUBER. Perhaps the Office of Statistical Standards would want to respond to this directly, but that Office is much more concerned with the statistical project and the aspects of the impact on the public than they are with the budgetary aspect of it.

Mr. GALLAGHER. I know that is correct, and one of the things that worries this special inquiry, is that there is a general tendency to allow the Bureau of the Budget to worry about all sorts of things other than their statutory duties, which are budgetary, not necessarily a policymaking institution, where one would be overly concerned with the privacy of individuals.

I was interested in your statement earlier that this does not affect very many people. If it affects one or two, I think we have a great concern.

Yesterday I had a conversation with Admiral Rickover, who was discussing the psychological personality type test, and it was his opinion that if he had to take the MMPI as a prerequisite to entering Annapolis, that he would never have made it, and therefore that would have been one individual that would have been precluded from service in the U.S. Navy, and the country would have suffered a great loss. In fact, he had a suggestion on personality testers, that we put them all on an island, give them a lot of red crayon to play with and test each other and let the rest of the Government get on with its business.

So the concern is, if this does affect one or two people, that we are then concerned. But I wonder whether or not you can totally rely on this aspect of questioning, and allow that to be a prime consideration of the Bureau of the Budget, or whether in fact it should not be a prime consideration of the agency itself.

Mr. TAEUBER. Let me add one other element in this.

Having gone through this review process, which takes many, many hours of discussion, both within the staff and with this advisory committee and with the Department of Agriculture in detail, we then put together a trial schedule. We take it out into the field, and test it. We did this in 12 different parts of the country. We simply selected sample counties. We hired enumerators, and we went out as observers, and tried this out, just to see what are the reactions of the people who are going to be asked to answer these questions. In the light of that, some questions are dropped, some are modified.

If we run into real resistance or objection or misunderstanding, misinterpretation, other difficulties, this would lead to a reconsideration on our part before the thing is made final.

Mr. GALLAGHER. Do you run into any resistance?

Mr. TAEUBER. Very, very little.

Mr. GALLAGHER. Would this be due to apathy or that people are conditioned to answering questions?

Do you view this as a healthy thing or an unhealthy thing, that people do not resist Government intrusion?

Mr. TAEUBER. We have not put that type of question to them.

Mr. GALLAGHER. I think if I were boarding in a house on a farm, and the farmer came down and said "Friend, I want a full disclosure of all of your assets, all of your income, everything about you," I think that I would find that objectionable, and 3 percent of the farm population are subjected to this.

Mr. ECKLER. Mr. Chairman, I think I would like to withdraw from defending that particular element of the farm schedule.

I think that this is the kind of thing that did not get to my personal attention as a detail. Some of these things do come up as a result of this kind of inquiry and others. I believe that we ought to have that kind of mechanism for direct reporting as you suggest if we must collect that.

I have a personal question I would raise as to whether that needed to be a part of the census of agriculture. It was put in there, and there were very few objections, as I said before. But in this particular case it is much harder to defend. And the mechanism ought to have been available so that the boarder or lodger could have reported directly.

But even more than that I would raise a question as to whether we could not have limited this to members of the farm family, rather than the farm household.

Mr. GALLAGHER. I personally feel that would be more desirable.

Mr. ECKLER. Yes.

Mr. GALLAGHER. It might even keep a fellow's monthly board at a steady rate rather than the farmer finding out he could pay a little more.

Mr. ECKLER. Yes.

Mr. GALLAGHER. But over and above the issue of privacy, Mr. Randall, what happens in the Agriculture Department on this type of thing?

Do you rely on the Bureau of the Budget to check out this type of policy or review it?

Mr. RANDALL. Mr. Chairman, our involvement in this situation starts with our suggestions as to the kinds of data that we would like to have collected in the census of agriculture.

Our interests specifically in this off-farm income is a result of requests from our administrators and from others for this kind of estimate. We participate in a Department-wide review of all the suggestions that are made for questions to be included in the census of agriculture, and the result of this consideration in the Department then goes to the advisory committee that Mr. Taeuber mentioned, for consideration there.

Our primary interest is consideration of how badly we need the data in relation to other types of data that are being requested, since there is always a need in the mind of at least some person for several times the amount of data that can actually be included in the census questionnaire.

Mr. GALLAGHER. You rely on the advisory commission and the advisory commission relies on the Bureau of the Budget to review this.

I am wondering whether or not we could in fact reverse the procedure, so that you people yourselves have this uppermost in your minds, along with the necessity of obtaining data.

I am wondering whether or not we could enlarge the advisory committee to include a person whose main function would be to serve as a watchdog on matters involving invasion of privacy. I'm thinking of someone with one of the bar associations, knowledgeable on this problem, or a university professor.

Mr. RANDALL. From the Department's point of view, I see no reason why this could not be done, Mr. Chairman, but I do not want to leave the impression that the Department is completely unmindful of the question of privacy.

Mr. GALLAGHER. Oh, no, the special inquiry is aware of this.

What the special inquiry objects to frankly is allowing a little too much room for shifting or, rather, allowing the responsibility to repose in the Bureau of the Budget on matters relating to privacy.

As a Member of the Congress, I would think that the Bureau of the Budget has all kinds of other problems. I see now they are even going to try and balance the budget this year, so you know they are not going to have much time for that sort of thing.

So the special inquiry feels that you are trying to do a fine job in this, but there are a few holes and this is one of them. One of the

problems of course, is that sometimes the enumerators themselves are neighbors of the people they interview. I realize the law supposedly protects the confidentiality of the information obtained, but I wonder if this is actually the case.

Do you think there is any possibility of some of this information being bandied about in the community?

Mr. ECKLER. Mr. Chairman, if I might comment on that, whenever we get any evidence that an enumerator has not conformed to the law, in this, we have an investigation made, and we aim to have action taken.

I think that there are sometimes complaints made that may represent just mischievous gossip and so on. I personally doubt if there is very much of this misuse, but there is the opportunity for it.

Mr. GALLAGHER. What if a farmer should fear this type of thing, or an individual? What steps are taken to protect his privacy?

Mr. ECKLER. If he fears this?

He is supposed to be able to report directly to the crew leader who is the supervisor over the enumerator, or to report directly to the district office under which the crew leaders and enumerators are working.

Now in the future, as we indicated, we have hopes that we may come closer to having this on a mail basis, so that the farmers receive the forms and can mail them directly to the district office and not have them go through an enumerator at all. That would be the means that would be helpful.

Mr. GALLAGHER. The special inquiry would welcome any advancement along this line.

Mr. ECKLER. I think it is an improvement from the point of view that you are expressing interest in, and also from the point of view of efficiency, so it is a direction in which we want to move.

The listing, however, of farm families is a somewhat more difficult matter than the listing of city families, because we do not have equally good means of identifying addresses.

Mr. GALLAGHER. Of course there are many problems there.

Would it be possible—what about a married son of a farmer living in a farmhouse who might not wish to share all of his financial information with his father, or a daughter-in-law who might have built up her standing a little more than she might be entitled to?

For instance, the question on education, or how much formal education she may have had or may not have had. Do these people have an option to protect their privacy in any way?

Mr. ECKLER. I think this same effort that you encouraged us in with regard to the nonrelated people could be extended to the related people, so that in any case where there is any problem, we could have it made clear that separate reports could be made and furnished directly to the district office.

Mr. GALLAGHER. Could we shift the burden a little bit, and advise them affirmatively of this, rather than wait until a problem should arise, and then allow them to take this course?

Could this be made part of the instruction?

Mr. ECKLER. Part of the instructions?

Yes; it could be made part of the general publicity about the census.

Mr. GALLAGHER. Yes?

Mr. ECKLER. Yes; I think that could be done.

If we continue to take it by the conventional enumeration methods, one of the problems is to be sure that each enumerator does tell the farmer of this option. You cannot be sure that he takes the extra time to do that, but you could have publicity which gets this across to farmers.

Mr. GALLAGHER. And you would welcome this suggestion to carry out this type of campaign, publicity campaign?

Mr. ECKLER. I think we would welcome any suggestions the committee wants to give us, Mr. Chairman.

Mr. GALLAGHER. We would like to give you that one.

The special inquiry feels that in the interest of efficiency as we have seen it, there has been a breakdown in this area of concern, and that if we could at least make it a part of the consideration of the census taking, that in the long run we would be serving the country, I think, in a better respect.

Could you advise whether or not, and for the record would you state the law under which the confidentiality of census information is protected?

Mr. ECKLER. Yes.

Basically, it is title 13 of the United States Code; section 9 of that title gives the provisions regarding confidentiality.

Would you like to have that submitted for the record, Mr. Chairman?

Mr. GALLAGHER. Yes; we would like to have it made part of the record.

Mr. ECKLER. You do not want me to read it here?

Mr. GALLAGHER. No. We would like to have you submit that for the record.

Mr. ECKLER. All right, we will be glad to.

(The document referred to follows:)

§9. Information as confidential exception

(a) Neither the Secretary, nor any other officer or employee of the Department of Commerce or bureau or agency thereof, may, except as provided in section 8 of this title—

(1) use the information furnished under the provisions of this title for any purpose other than the statistical purposes for which it is supplied; or

(2) make any publication whereby the data furnished by any particular establishment or individual under this title can be identified; or

(3) permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual reports.

No department, bureau, agency, officer, or employee of the Government, except the Secretary in carrying out the purposes of this title, shall require, for any reason, copies of census reports which have been retained by any such establishment or individual. Copies of census reports which have been so retained shall be immune from legal process, and shall not, without the consent of the individual or establishment concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(b) The provisions of subsection (a) of this section relating to the confidential treatment of data for particular individuals and establishments, shall not apply to the censuses of governments provided for by subchapter III of chapter 5 of this title, nor to interim current data provided for by subchapter IV of chapter 5 of this title as to the subjects covered by censuses of governments, with respect to any information obtained therefor that is compiled from, or customarily provided in, public records.

Mr. GALLAGHER. Are there any exceptions to confidentiality of census information?

Mr. ECKLER. There is in title 8, or rather, section 8—I was conferring with Mr. Erickson.

Mr. GALLAGHER. That is different than the old section 8?

Mr. ECKLER. Yes. There is a provision that at the discretion of the director, certain information can be furnished. Suppose we furnish that too. It is a very narrowly defined kind of exception, and I think we ought to supply that to you.

Mr. GALLAGHER. We would like to have that.

Has this discretion ever been exercised?

Mr. ECKLER. Yes, age search information.

(The matter referred to follows:)

§8. Certified copies of certain returns; other data; restriction on use; disposition of fees received

(a) The Secretary may, upon a written request, and in his discretion, furnish to Governors of States and Territories, courts of record, and individuals, data for genealogical and other proper purposes, from the population, agriculture, and housing schedules prepared under the authority of subchapter II of chapter 5, upon the payment of the actual, or estimated cost of searching the records and \$1 for supplying a certificate.

(b) The Secretary may furnish transcripts or copies of tables and other census records and make special statistical compilations and surveys for State or local officials, private concerns, or individuals upon the payment of the actual, or estimated cost of such work. In the case of nonprofit organizations or agencies the Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Secretary and provided that the purposes are otherwise authorized by law.

(c) In no case shall information furnished under the authority of this section be used to the detriment of the persons to whom such information relates.

(d) All moneys received in payment for work or services enumerated under this section shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

Mr. GALLAGHER. What would be the justification for the exercise of this discretion?

Mr. ECKLER. That this is information which is needed, as it says here for genealogical and other proper purposes. This is at the discretion of the Secretary which in turn is delegated to the Director.

* * * may, upon a written request, and in his discretion furnish to Governors of States and territories, courts of record and individuals data for genealogical and other proper purposes—upon the payment of actual or estimated cost of searching the records and \$1 for supplying a certificate.

This is given to the person who supplied the information or his legal representative.

Mr. GALLAGHER. Is that the only exception?

Mr. ECKLER. This is the only exception that exists.

An individual may want this for age, proof of age for purpose of passport or employment certificate, social security, or something of that sort.

We do about 200,000 of those jobs each year.

Mr. TAEUBER. But if I might add, Mr. Chairman, this information is supplied to the individual who initially supplied it to the Bureau, or on his order it may be supplied to someone else. But it cannot be supplied to a third party without the authorization of the person who initially provided it to us.

Mr. GALLAGHER. I see. That is an excellent safeguard.

Mr. ECKLER. And there is one other safeguard I should note.

"In no case shall information furnished under the authority of this section be used to the detriment of the persons to whom such information relates."

Mr. GALLAGHER. That would include any investigation being made about the individual, or any matter relating to taxation?

Mr. ECKLER. Right.

Mr. GALLAGHER. Has there ever been an exception made in this?

Mr. ECKLER. Not to the best of my knowledge.

Mr. GALLAGHER. How about to the best of anyone else's knowledge?

Mr. ECKLER. I know of no one who knows of an exception, and I believe that this has been protected in an inviolate fashion.

Mr. GALLAGHER. What would you do if a court order was presented to you for the obtaining of information, say, on family x on a farm?

Mr. ECKLER. In this case there has been an example in which—I do not think the treatment of court orders has been uniform.

Mr. GALLAGHER. They are not?

Mr. ECKLER. Sometimes court orders have been disregarded.

Mr. GALLAGHER. That is one of the things we worry about.

Mr. ECKLER. In at least one case, I believe under a court order, the information on the individual was furnished to the court with a separate statement regarding the statutes and calling attention of the judge as to the conditions under which this was furnished, and I think the transcript was returned unopened.

Mr. CORNISH. You mean the court realized it was asking for information it had no proper authority to get?

Mr. ECKLER. Yes; I believe the only case I know of was turned back to us.

Mr. GALLAGHER. Can any investigative agency of the Federal Government have access to this information?

Mr. ECKLER. No, sir.

Mr. GALLAGHER. Without the express consent of the individual?

Mr. ECKLER. That is correct, sir.

Mr. GALLAGHER. There has never been an exception to this?

Mr. ECKLER. Again, not to the best of my knowledge, and I believe there never has been.

(The following information was later submitted by the Bureau of the Census for inclusion in the record:)

It might be noted that in time of war special provisions may be set up to provide for the transfer of information among Federal agencies. For example, section 1402 War Powers Act, passed March 27, 1942, citation 56 Stat. 176, provided that during this war time Director could turn over or release any records from one agency to another. Under that order—Executive Order 9157 of May 9, 1942, citation 7 F.R. 3505 directed Secretary of Commerce to turn over any of his records under certain conditions. The War Powers Act itself expired May 3, 1947, as to that section.

Mr. GALLAGHER. Mr. Rosenthal?

Mr. ROSENTHAL. I have no questions, Mr. Chairman.

Mr. GALLAGHER. Mr. Romney?

Mr. ROMNEY. Dr. Eckler, I wonder if you could just give us a definition so that our record is completely understandable on what you meant by members of the operator's immediate family. Who are members of the immediate family?

Do they include in-laws, for example?

Mr. ECKLER. All related members who are living with the operator.

Mr. ROMNEY. Does this go to any degree of relationship, uncles, cousins, aunts, grandparents?

Mr. ECKLER. It would include any of those, would it not, Dr. Taeuber?

Mr. TAEUBER. It would.

Mr. ECKLER. When we say immediate family, we are trying to differentiate those from related people who are not living in the household and who may be living somewhere else.

Mr. TAEUBER. Related by blood and marriage or adoption is the standard language we use.

Mr. ROMNEY. I see.

Then I would like to ask this question. You indicated that the sampling that is used in connection with the census is objective. There are now quite sophisticated sampling techniques. They are referred to generally as statistical sampling techniques whereby the use of a very small sample, a relatively small sample, can be very effective in ascertaining the facts concerning a fairly large group or universe, as the term is used.

Does the Bureau of the Census continue to attempt to perfect its sampling techniques with the view to reducing the size of samples in your question that you must use for your questioning?

Mr. ECKLER. The answer is "Yes", and if I might enlarge upon that, Mr. Romney, I believe the Census Bureau has been one of the leading agencies in the Government, perhaps in the world, in the application of sampling to the measurement of economic and social phenomena, and that the contributions which have been made from some of our staff have been widely followed by others, and have made very important advances in the matter of getting information from a sample of the total.

In connection with planning all of these samples, we have one objective, to keep the number as low as possible consistent with the types of data being needed, and the size of this sample, 20 percent, is determined to a very considerable extent by the kinds of tabulations for which we want to present the data for counties and larger areas, and by the detail of cross-tabulation.

If we had a smaller sample than that, it is believed that the reliability of the results would not be sufficient to meet some of the objectives. But our people are working hard on improving methods of sampling, and we believe we have quite highly sophisticated techniques.

Mr. ROMNEY. Have you completed your studies on the relative cost of using mailing techniques for obtaining your information as opposed to the use of individual enumerators, and if so, what results do you have?

Mr. ECKLER. Our studies on the relative costs and efficiencies, the desirability of these approaches, is not yet completed. We have recently had a census in Cleveland which is the second large scale one. There was one in Louisville last year. The results are being analyzed and further work is being done, and some time in the next few months we hope to arrive at a definite position as to what recommendations ought to be made concerning the procedures to be used in 1970, the extent to which mail should be used and we should shift to the new approach.

Mr. TAEUBER. I think I would like to add to that, as part of the 1964 Census of Agriculture, we did select a 17-county area in Indiana and Illinois, in which we did the census of agriculture by mail insofar as possible. But we have not yet been able to get a full picture of the relative costs and the relative efficiency of this operation.

Mr. ROMNEY. Dr. Eckler, I wonder if it would be possible, when you have some fairly definite results, that you can draw conclusions from, if you could supply us with this information, supply the special inquiry with this information?

Mr. ECKLER. We will be very happy to do so, Mr. Romney.

Mr. CORNISH. Mr. Director, you state that the outside income is broken down into categories in order to arrive at a more accurate figure.

Mr. RANDALL. I stated that.

Mr. CORNISH. You indicated it somewhere.

Mr. ECKLER. Yes; I think it is implied also in my statement.

Mr. CORNISH. Both of you did, actually?

Mr. ECKLER. Yes.

Mr. CORNISH. I wonder when the enumerator goes to the farm, could he not ask the farmer if his total outside income figure included all of the items listed in the categories; would this not give you a similar accuracy without a written breakdown on the form itself?

Mr. RANDALL. There are really two problems here as far as I am concerned.

One is the figure for the year of the census itself, and I think Mr. Eckler's questions about details related to that question.

The other question as far as I am concerned, or as far as the Department is concerned, is that we do not have census information or sample information for every year. We do need to make an estimate for every year.

And so, since the components do not necessarily change from one year to the next in the same way, in our opinion at least we can make a better estimate for the years for which we do not have a census figure, if we have the components so that we can take wages and salaries, for example, and estimate the changes in that component, and take income from off-farm business and estimate the changes in that component, and do it with each of these separate components and add them together which gives us a better estimate for the years in between censuses than we could if we just had a global total and were forced to somehow or other estimate how this total changed from one year to the next. This is the importance of the separate components from our point of view.

Mr. ECKLER. I think I would add that, in addition to Mr. Randall's testimony regarding the need for the parts, that the total would also be more accurately obtained if we got the parts and put them together, rather than to do this checklist approach.

I think we cannot be sure that the enumerators will do that very consistently or the person responding will respond very consistently. He will just say yes. We get more complete reports by going through the parts.

Mr. CORNISH. Under the present system, the farm operator indeed provides this information for other people. I wonder if it would not be more accurate, which is one of your objectives as you have just said, if the financial information was gained from the individuals rather than someone else.

Mr. ECKLER. I think it would be.

Mr. CORNISH. And also before you were talking about the fact that there seemed to be very few objections to the types of questions asked on such questionnaires as the farm census. I think this was explicitly pointed to in the sample which was mentioned earlier.

Do you not think also that the American people are so used to being asked to answer question on forms and questionnaires that even if they did have any objections, they probably would just say, "Well, I will just go ahead and answer it because I know if I do not I will get in trouble. I am required under the law to do this. If I protest, I will have to go to court and this is going to cost money, and I really have no way of appealing this."

Do you not feel that the inclination is, whether you like the questions or not, to just answer them and shut up?

Mr. ECKLER. Mr. Cornish, I take a somewhat more optimistic view about our people. I am inclined to think that the greater acceptance of questions and the better cooperation are due to the fact that more and more people realize that a nation like ours needs to have statistics for guidance in many decisions, decisions that are made at the local level, the national level, by businesses, and so on.

They get some exposure to this in the schools through the statistics that the children talk about, and get exposed to, and I believe that the Nation as a whole is getting more sophisticated in this matter and there is a greater acceptance of the fact that when you operate in a free society, you need information about the activities of our economy.

So I am hopeful that it is not just because of a passive acceptance, but rather a belief that this is a part of the duty of citizens in this kind of society.

Mr. CORNISH. I would agree, Mr. Director, that perhaps the citizen might not have any objection to answering all of the other sections of the farm census questionnaire, but possibly he might have a legitimate objection to answering some of the questions in section 11.

This raises the point what happens in this instance, where a person does have what he considers to be a legitimate objection.

Mr. ECKLER. I would like to expand a little bit, and this partly is brought about as a result of some of the chairman's remarks earlier.

I think that the Census Bureau does have a focal responsibility in this matter of considering privacy, and while we welcome the help of the Budget Bureau, which has to review these things, I think that we do have a very key role in this matter. It is forced upon us by just the nature of things. We are in the business of taking censuses and surveys. If we become characterized as an organization that is asking unreasonable things, is improperly guilty of undue prying or anything else, it damages our ability to do our job, which we think is an important job.

So we must be, I think, continuously mindful of the fact that an unreasonable inquiry in one area may affect cooperation in other areas, whether it is a census or whether it is a job we do for another agency. We take all this seriously because we do a good many jobs for other agencies and they sometimes have some questions that we have great concern about. We are the ones that bear the burden, we are the ones that have agents out there asking questions, and we expect to be in business for some time.

So this is a concern. If citizens come to the conclusion that we are asking prying questions, questions not pertinent to the purposes of the job, it will have an effect. We give a great deal of consideration to this, and I think our committee, as Dr. Taeuber says, also gives a great deal of attention to this.

So if there are questions of the type that seem to be completely alien to the inquiry, or an invasion of privacy in a way that has been referred to here earlier today, we want to identify those and we want to take steps to have them eliminated.

Mr. GALLAGHER. The Chair thanks Mr. Eckler for that statement. We certainly concur.

In fact, that was one of the reasons why we wanted to bring out that the information was adequately protected, so that you could carry out your duties more efficiently. This inquiry is concerned with what you said.

In a free society, there are a great many activities that must be measured, but with all the questionnaires and with all of the things that we are swallowing now, there is a very great possibility that we might be questionnairing our way out of a free society, and I think it is a healthy thing if we can continue to review our policies, and if we take a fresh look at where we are headed in this entire area.

I wonder, perhaps in a lighter vein, whether or not the fact these 332 questions must be answered by farmers, could be a reason why more people are leaving the farm?

Another thing, why do you question them merely about Irish potatoes?

Mr. RANDALL. I think the sweetpotatoes are on there some place, are they not?

Mr. GALLAGHER. No, just Irish potatoes.

Mr. TAEUBER. You perhaps have a schedule for a State that does not grow any significant quantity of sweetpotatoes.

Mr. GALLAGHER. Yes; this is a New Jersey questionnaire.

Mr. TAEUBER. The Georgia questionnaire asks for sweetpotatoes as well.

Mr. GALLAGHER. You mean New Jersey merely grows Irish potatoes?

There are a lot of people in New Jersey because there were no Irish potatoes in Ireland, notably my grandparents.

Mr. TAEUBER. The sweetpotatoes must not be commercially significant.

Mr. GALLAGHER. But Irish potatoes are commercially significant in New Jersey?

Mr. TAEUBER. In New Jersey.

Mr. GALLAGHER. And no other potato?

I am glad that the Irish are making a contribution that is significant enough to point out in the questionnaire, that there are no other potatoes.

Mr. CORNISH. Mr. Chairman, during our informal interviews prior to this hearing, we spoke to Mr. Randall and he gave us a rather interesting reaction on some of his personal views in regard to Government questionnaires and other forms that people are often asked to fill out. I wonder if he might be willing to share some of those with us today?

Mr. GALLAGHER. We would be delighted to hear them.

Mr. RANDALL. I will be glad to, Mr. Chairman.

I think my observation, Mr. Cornish and Mr. Romney, was along the line that although I am a statistician by profession, and if people generally could quit answering questionnaires I would be unemployed I guess, I personally react to questionnaires in about the following

manner, and it does not make any difference whether it is Government questionnaires or some other kind.

If I am convinced that the information that is being asked for on the questionnaire is needed and will serve a useful purpose, and is a proper concern of whatever agency is responsible for the questionnaire, I will be glad to fill it out to the best of my ability. But if I think they are asking for information that is not essential to the express purpose of the questionnaire, I will tend to throw it in the wastebasket.

Mr. GALLAGHER. You are fortunate. This is one of the things that we encourage, but unfortunately, many people in Government service until recently, if they did this, would be throwing their career in the wastepaper basket, including some people who worked in very sensitive jobs, who felt that their sex lives and their religious beliefs had no bearing on their typing ability, and did just that, and they ended up where the questionnaire ended up.

So we encourage this kind of thinking, and I am glad that this spirit still prevails. If we could engender a little more thinking like this, perhaps we could not only acquire better and more significant information, but at the same time we would be protecting the individuals involved.

Mr. ROMNEY. I do not know which one of you gentlemen would care to comment on this, but this is a followup on a question that was just asked.

On the farm census form, section 11, there are columns 11 and 12 which seem to have lumped together in them a number of sources of income. I am wondering whether or not it may not have been a rather arbitrary grouping for this reason. Some of these sources of income would tend to be stable or even constant. Others would tend to fluctuate in accordance with the economic conditions.

If the totals of these columns are to be benchmarked for your further statistical analysis, how can they really serve that purpose well when they may consist of categories of income which are not compatible?

Mr. RANDALL. I will comment on that and if any of the rest of you want to comment, that is all right too.

I would say, Mr. Romney, that even this four-component setup is in itself a compromise back from the most desirable situation.

If you had what the statistician himself would really like to have, you would have asked for a good deal more detail. But you have to make compromises between what you want and what seems to be practicable, and this is the compromise that was arrived at through this review in the advisory committee process as giving us as much useful information as possible without becoming unreasonable in terms of the question on the questionnaire.

Yes, you could have asked for additional detail, but you also have to compromise between what seems to be the most desirable from the standpoint of what you need and what is practical from the standpoint of inclusion in the questionnaire.

Mr. ECKLER. You see Mr. Romney is getting to be a statistician. He looks at these parts and sees some behave one way and others in another way, so we ought to have additional categories.

Mr. RANDALL. As a statistician and in charge of making these estimates, if I were asked what I would really like to have, I would and probably did ask for more detail than this. But this is the

compromise that comes out of the need of the statistician and the reactions of the advisory committee and the people in charge of the census as to what is practical to ask people to provide.

Mr. ROMNEY. It may not be a question of whether there should be additional categories. It may be a question of fewer categories. But my basic point is, how can the analysis be meaningful when these individual components in the columns do not seem to be compatible and would fluctuate independently?

Mr. RANDALL. The first two categories are reasonably clear cut, and subject to roughly the same general influence. I mean each one is separate to a set of influences. The last two are not nearly so clear cut.

Mr. ROMNEY. These are the ones I had specific reference to.

Mr. RANDALL. Well, my reaction is, this is not as good as I would like to have, but it is the best they will give me and I make do with the best I can get.

Mr. ECKLER. If I may supplement this, Mr. Romney, I think it is true that whenever a census is taken, it may happen to fall in a year which is high in the business cycle or low in the business cycle or somewhere in the middle. So the results may not be, strictly average.

And in interpreting the results of the census and the benchmarks that are provided, allowance has to be made for the fact that it may be unduly high because we were at a very active period or, conversely, unduly low because we are at a low period. The only way to get away from this is to move toward annual surveys, which would give information for each year, but certainly for a smaller number of geographic areas.

And to some extent the Department of Agriculture does move in that direction with its annual surveys, but this is a good point which you really cannot get away from in any census. You may happen to hit a year which is quite extreme.

Mr. GALLAGHER. Thank you very much, Mr. Eckler and the other witnesses. The Chair would like to thank you for your cooperation and your excellent presentation, and for your willingness to accept the suggestions that we have made, and we would also like to state that we hope there will be an awareness in other agencies of the Government such as you obviously have for this problem, the problem for the need for the collection of information as well as the very great necessity of protecting the people that we are collecting the information on. And so the Chair would like to thank the three witnesses. You are excused.

Mr. ECKLER. Thank you, Mr. Chairman.

(The following were later submitted for inclusion in the record:)

STATEMENT OF ANGUS McDONALD, DIRECTOR OF RESEARCH, NATIONAL FARMERS UNION

Mr. Chairman, and members of the committee, our attention has recently been called to the fact that certain persons assigned by the Census Bureau of the United States have required farmers to answer certain questions which in our opinion, are an invasion of their privacy. We are referring to questions addressed to farm men and women in regard to income of persons who may be employed by and living in the home of the farmer.

For example, the farmer is required to ascertain the income of such hired men and women in addition to the income derived by employment on the farm. One can easily imagine such questions would prove embarrassing in certain instances,

not only to the farmer and his wife but to those persons living in the home and employed by the farmer. Furthermore, such information might result in some instances in a weakening of the bargaining power of the farmworker. If a farmer has learned that his employee had a sizable outside income he would perhaps be in a position to embarrass the employee by infringing on his rights as a free agent in regard to payment of wages.

In any event, no matter whether such questions resulted in embarrassment or weakening of bargaining position, we consider that such questions may be a violation of the 1st and 14th amendments of the Constitution of the United States. These amendments are fundamental to our liberty and should not be subject to the slightest possible violation.

Violations of the so-called free speech provisions of our Constitution have been a subject occupying more public debate than any other during the last few years.

The passage of the Civil Rights Act, the debate on the pending voting rights law is indicative of the temper of the times which has made farmers and other citizens extremely sensitive to any infringement of their basic liberties.

We therefore urge this committee to make known its disapproval of methods employed to gain census information which are in violation of the spirit, if not the letter, of the Constitution and statutes passed by the Congress.

NATIONAL GRANGE,
Washington, D.C., June 23, 1965.

HON. CORNELIUS E. GALLAGHER,
*Chairman, Special Inquiry, House Committee on Government Operations, U.S.
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The National Grange strenuously objects to the questions in section 11 of the farm census.

The requirement concerning a breakdown of all off-farm earnings is unnecessarily detailed and requires an unusual amount of work as well as the revelation of personal data not required of other segments of our population. A simple total of earnings should suffice for any purpose the Census Bureau could legitimately have.

The requirement that the farmer acquire the information concerning the earnings of all residents of the house is completely unreasonable in that it makes him legally responsible for acquiring information which he, in turn, has no right or power to acquire. It also places the residents in a position of having to supply highly personal information to someone who is not an officer of the Government.

We consider these requirements to be illegal invasion into the private lives of U.S. citizens, or illegal requirements imposed upon farmers and residents alike in their households and which are unnecessary and inconsistent with the census requirements of other groups.

Respectfully,

HARRY L. GRAHAM,
Legislative Representative.

MR. GALLAGHER. The Chair would like to call Mr. Edward T. Crowder, Clearance Officer of the Office of Statistical Standards, Bureau of the Budget, and Mr. Carey P. Modlin, Jr., Associate Clearance Officer of the same office.

Under the rules of the committee, you must be sworn.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

MR. CROWDER. I do.

MR. MODLIN. I do.

MR. GALLAGHER. We welcome you, Mr. Crowder, and Mr. Modlin, to the special inquiry.

Do you have a prepared statement?

Will you please proceed?

**TESTIMONY OF EDWARD T. CROWDER, CLEARANCE OFFICER,
OFFICE OF STATISTICAL STANDARDS, BUREAU OF THE BUDGET;
ACCOMPANIED BY CAREY P. MODLIN, JR., ASSOCIATE CLEAR-
ANCE OFFICER**

Mr. CROWDER. Yes, Mr. Chairman, we were invited to be on hand and be responsive to two questions.

The first: To what extent does the invasion of privacy enter into the review of questionnaires and reports by the Budget Bureau, and what criteria for approval or disapproval do you apply?

In answer to this, let me say, our review of any questionnaire or report involves a weighing of benefits against burdens imposed on respondents and costs to the Government. Among the elements of impact on the respondent, we consider the sacrifice of privacy and the degree of such sacrifice, taking into account the voluntary or mandatory character of the response.

Almost any questionnaire or report involves some loss of privacy. This is true of the income tax form. It is also true to some extent of census inquiries, financial reports from business, and application forms filed by job applicants or applicants for some privilege or benefit.

The issue therefore is never simply one of whether there is or is not a loss of privacy but of whether a particular question is reasonable and warranted in view of the purpose for which the inquiry is designed and the conditions under which it is carried out.

While our reviewing staff is quick to identify questions of an unusually intimate nature, we customarily pursue the issue in terms of whether the question serves a legitimate purpose, is technically sound for accomplishing that purpose, and provides appropriately for confidentiality.

As a result, our records will not show that a question has been eliminated or amended solely on the grounds that it is an invasion of privacy; they will show instead that the action was based on our conclusion that the question was not reasonably related to a justifiable purpose or was not technically adequate to serve that purpose.

To understand how this review procedure works in practice, it is necessary to understand the scope of our review authority and to distinguish among the several types of reporting proposals on which we act.

Our review activity under the Federal Reports Act of 1942 covers data collection from the public—specifically any inquiry involving the asking of identical questions of 10 or more persons, companies, or other respondents. Thus some of the activity which has been of particular interest to this committee is not reviewed by us because the subjects are Federal employees rather than members of the public.

Among the reporting procedures that do involve the public, and are subject to our review, and which are most likely to raise questions of an invasion of privacy, one important class is the application for Federal employment.

We concur in the position taken before this committee by Chairman Macy of the Civil Service Commission that personality tests have no legitimate role in regular job application procedures.

On the other hand, it is well known that the Standard Form 57—the application for Federal employment—contains questions of an intimate nature on drinking, arrests, employment experience, et

cetera. Such questions as appear on this form we have examined and approved.

Another important area in which a question of invasion of privacy may be raised is that of research in the field of personality and mental health, best illustrated by the research projects of the Public Health Service. In this area questions of a personal or intimate nature often are involved, but participation is entirely voluntary, and it has been our view that the issue of invasion of privacy does not arise.

These studies, whether carried out directly by Government researchers or through contracts with non-Government research organizations, are evaluated on their merits. We satisfy ourselves that the proposed tests or questions are appropriate in relation to the objectives of the study. If the use of a well-established, standardized test is proposed, we do not attempt to amend it, but only to appraise the appropriateness of its use as a whole in terms of its known attributes and their relationship to the study in question. In making judgments of this sort, we consult experts both within and outside the Government.

In addition to employment application procedures and psychological research projects, there remains a miscellaneous variety of general statistical or administrative reports with respect to which the issue of privacy may arise—census forms, applications for privileges or benefits, surveys of participants in Federal programs, and the like. Here again, we evaluate each case on its merits.

We were also asked to be responsive to the question of what are some examples of how we have amended or disapproved questions which have involved the issue of privacy.

Let me repeat in this connection that such examples as I can cite illustrate not actions in terms of the simple issue of invasion of privacy, but judgments as to appropriateness and technical adequacy.

Item 1: We received a proposal to administer a well-known standardized personality test to 6- to 12-year-olds in connection with a health examination survey. We questioned the appropriateness of this particular test for children as young as 6 years. Consultation with psychologists confirmed the view that the test, however valid for other purposes, was not appropriate in this case, and it was disapproved.

Item 2: In a recent review of a group of naturalization and visa application forms we questioned the propriety of requiring a report of all cases of "offenses" against the law regardless of whether they had resulted in arrest or conviction. We were able to work out with the Immigration and Naturalization Service some modification of the original language, but the INS demonstrated that they were governed by the requirements of their statute and that little could be done amendment to existing law.

Item 3: About 15 years ago we worked with the Civil Service Commission in revising Standard Form 57 to make certain questions on personal conduct more realistic, less burdensome, and less likely to evoke false answers—as in the case of the question requiring a listing of all traffic violations regardless of seriousness.

Item 4: We have recently reviewed the application form for counselors to disadvantaged youth under the CAUSE II program of BES. This questionnaire was designed to obtain information on the socioeconomic background of the applicant and his ability to understand

the youths with whom he would be working, and contained a number of questions not ordinarily asked in such forms. We questioned the appropriateness and usefulness of a number of items. We agreed that a number of them are proper in this context. We were not persuaded as to the appropriateness, usefulness, or clarity of a number of the questions. Some were amended and about 25 were eliminated.

Item 5: A study of unemployed Studebaker workers in South Bend in its original form contained a battery of psychometric questions. These were all eliminated on the grounds that their technical validity for the study had not been established.

Item 6: The Public Health Service proposed to administer to a group of normal male citizens a personality test designed to test changes in personality in dope addicts when certain central nervous system drugs were administered. The purpose of this was to establish a comparison between results obtained from a normal and from an addicted group. The normal subjects were, as part of the battery, to answer questions about physical symptoms of addiction. The men chosen in the sample were to take the test at their own convenience and were not to discuss it with their wives. The plan appeared to us to have technical deficiencies, such that it would not result in unbiased information. The agency ultimately withdrew its request for approval.

Item 7: A special survey of civil defense local officials was proposed by the Defense Department with the object of throwing light on what makes for effective civil defense activity and leadership. We insisted on the deletion of questions on the religious and political affiliations of the respondents as irrelevant.

Mr. CORNISH. When did that review take place in CAUSE II?

Mr. CROWDER. This was within the last few weeks.

Mr. CORNISH. Was this following the hearings that were held before the special inquiry here?

Mr. MODLIN. The answer is "No." It occurred before.

Mr. CORNISH. Thank you.

Mr. CROWDER. That concludes what I had prepared.

Mr. ROSENTHAL. Mr. Horton?

Mr. HORTON. I do not have any questions.

I am sorry I was not here during the early part of the testimony.

Mr. ROSENTHAL. Mr. Romney?

Mr. ROMNEY. Mr. Crowder, would you please expand somewhat on the term you have used as one of your criteria, "appropriateness." This is obviously quite a general term, and I wonder if you would relate it to something more specific.

Mr. CROWDER. The point I was making was simply that any question must be judged in terms of what it is intended to do, and whether that objective is a legitimate objective and whether the question actually accomplishes it.

Now, to use one of my examples, the Federal application form for employment, certain questions on personal conduct are admittedly personal, and yet I doubt if there could be much argument that they are appropriate to the purpose of the form and legitimate.

Mr. ROMNEY. You used this also in connection with your description of your decision on some of the CAUSE II questions, and said you questioned the appropriateness, usefulness, and clarity of a number of the items.

What did you mean in this connection by appropriateness?

MR. CROWDER. Let me make a general answer and then, if it is desirable, Mr. Modlin, who happened to work on that one, may expand.

There were a great many questions in the CAUSE II application, and they appeared, a number of them, to us to have a very questionable value. We looked at the multiple-choice alternatives, and it was not at all clear what a good answer or a bad answer would be. We were not persuaded that the answer would be discriminating with respect to any legitimate purpose of the question. We debated with the sponsors and in a number of cases they withdrew the questions.

MR. MODLIN. Let me be specific in an illustration.

One of the questions that was eliminated asked for the definition of the word "pressed" that would be given by "a poor city boy." This was essentially the way the question was asked. One of the major objectives of the entire questionnaire is to identify persons who are familiar with or who came from disadvantaged backgrounds, and the "poor city boy" is at least one way of getting at this.

Three of us were discussing the question and two of us were very dogmatic that we knew the answer, and the third one was dogmatic that he knew the answer, too, except that it was not from his own experience. It was from what experts in the field had told him. We all three had different definitions of the word. So in that case it did not seem appropriate to retain the question, because there could be varying appropriate or correct answers depending on the background, in a geographic sense, of the persons answering the question.

It so happened that one of us was from the South, and another was from the North. Our dogmatic, different answers reflected our different geographic origins. The third one, speaking as the expert in this case, said that "pressed" has an entirely different meaning to a poor city boy.

MR. ROMNEY. Would this not also fit under the question of clarity of usefulness?

MR. MODLIN. The question was perfectly clear to all three of us. It would not serve the intended purpose adequately, and therefore one could say that it was deleted because it was not useful, as well as not appropriate.

MR. ROMNEY. In your discussion I have not yet seen how the element of invasion of a person's privacy becomes a part of the general issue of appropriateness.

Could you comment on whether it is a part of this factor of appropriateness?

MR. CROWDER. Let me comment on that, Mr. Romney. I think it could be put this way: that the issue of privacy is implicit in very many questions that go beyond impersonal facts that are completely devoid of any such implications of intimacy.

When we identify a question which does have a certain degree of intimacy, we give it a particularly hard look, and the issue then is, is it warranted in this case to ask this intimate question? So that the actual review proceeds in terms of the justification for it, and we end up with a judgment as to whether it is legitimate under these circumstances to pry this deeply into the respondent's affairs; and we may decide that it is or that it is not.

This is somewhat parallel to another issue that is also implicit in a questionnaire, namely, the burden of filling it out. There is some

burden involved in filling out any questionnaire, and here also we ask ourselves whether the purpose to be served warrants the imposing on the respondent of this burden, which may be moderate or very great, as the circumstances may vary.

Mr. ROMNEY. When you receive a questionnaire or form for clearance, what consultation, if any, do you have with the agency which is proposing the form or questionnaire on all points, and in particular the issue you have just talked about, namely, privacy and appropriateness?

Mr. CROWDER. Let me outline our general procedure and how this fits into it. These proposals come to us formally through the Government mail in a prescribed form with a statement outlining the nature of the proposal. They are registered in our so-called clearance office. They are assigned to that member of the staff whose assignment covers the area in question, and this staff member studies the dockets at an appropriate time, in terms of his own work program; he consults the sponsors, and asks questions which have occurred to him from his review of the dockets.

There are some cases that are so simple that no questions occur, and these go through rather quickly. There are many cases where questions do occur. Sometimes they are answered over the telephone; sometimes there are meetings with the sponsoring agency. Sometimes there are interagency meetings, if more than one agency is involved, and in a number of cases there are meetings with outside advisory groups. This is particularly true of inquiries going to business. But there is a great deal of variation and flexibility in the review process.

I can say simply that our reviewers identify the issues that seem important, and they pursue them with the sponsoring agency and with any other interests or agencies that are involved.

Mr. HORTON. Mr. Crowder, do I understand that your special function in your office is sort of a clearinghouse for all these questionnaires by all the agencies of Government?

Mr. CROWDER. That is right.

Mr. HORTON. I mean if I went down to your office, I would be able to find all the questionnaires that all the agencies and offices of Government are asking and sending out?

Mr. CROWDER. You would find a file of all active repetitive forms, and a record of the surveys, the single time surveys, that have been made.

Mr. HORTON. Do you have a lot of these in your office?

Are there great numbers of them or are there very few?

Mr. CROWDER. The number of active forms, which is our unit of counting, at the moment is in the neighborhood of 4,600.

Mr. HORTON. Do you mean to tell me that there are 4,600 different questionnaires that go out from different agencies of Government?

Mr. CROWDER. You would not call all of them questionnaires, I do not believe. They are what we call "report forms." They are instruments which ask questions, and some of them are no bigger than a postcard and some of them are 40 pages long. But there are that many.

Mr. HORTON. Would this, like this Department of Commerce, Bureau of Census questionnaire, have gone through your office, too?

Mr. CROWDER. Yes.

Mr. HORTON. I did not mean to interrupt your questioning, but I would like to ask a few questions. Were you finished?

Mr. ROMNEY. Yes, sir.

Mr. ROSENTHAL. Proceed, Mr. Horton.

Mr. HORTON. I was interested in your testimony with regard to what you do in more or less approving these forms, and your technique for this, and then also the statement that you made with regard to some of these so-called intimate questions.

Do you have a large number of these questionnaires that ask these so-called intimate questions?

Mr. CROWDER. Well, if we mean questions of the type illustrated by the examples I have given, I would say not a large number, but I am not prepared even to estimate the number. This would take a little research in the files.

Mr. HORTON. I do not have a copy of your statement so I am not sure just which ones you refer to, but what is your definition of an intimate question?

Mr. CROWDER. I am afraid I do not really have one. It is just a feeling that one has about certain questions. Some of them everyone would agree are intimate and some of them, like name and address, are not, and in between there is a vast range of questions about which people would differ.

Some people I know regard their occupation as somewhat private, and I would not myself. It is a hard term to define, and I guess we do not really have a formal definition of it.

Mr. HORTON. I am curious as to the number of instances, if you know, where your agency has turned down some of these questionnaires or taken out some of these questions, and I am more interested in the type of personal question that one might conceivably construe as an invasion of privacy, asking personal questions about one's family, and I do not mean the number of children he has or anything like that, but on his thoughts and opinions about different matters.

Mr. CROWDER. Well, what I had particularly in mind in the statement that I have just made was on the one hand the personality test, which has been of particular interest in the hearings of this committee, and on the other hand a group of questions about personal behavior, religion, political affiliation and various other aspects of life which are commonly regarded as private and which no one should be prying into without good reason.

Beyond that, I am afraid I do not have anything very specific as a definition.

Mr. ROSENTHAL. Mr. Cornish?

Mr. CORNISH. Thank you, Mr. Chairman.

Mr. Crowder, you seem to have just a wealth of information on many of the subjects that we are vitally interested in because your office does serve as some sort of a clearing operation for these forms and questionnaires. But tell me this:

Does the Bureau of the Budget take the responsibility for determining whether Government questionnaires constitute an invasion of privacy?

Perhaps I can help you on this. Or do you serve simply as a backstop on this? Is this not the primary function of the agencies involved?

Mr. CROWDER. Let me phrase my answer this way: We have an overriding responsibility for the review and approval of Government

questionnaires, with few exceptions which we need not worry about in this context. That is to say, we are obliged to inquire into whether the questionnaire is justified and technically adequate. Any question which bears on those issues we must consider.

We have not in our procedures formalized a set of rules about the invasion of privacy.

Mr. CORNISH. I understand that. You put that under the category of appropriateness.

Mr. CROWDER. Is it implicit in what we do, but we do not have a set of written staff rules on it.

Mr. CORNISH. But now if an agency came to us and said, "Well, we expect the Bureau of the Budget to review our questionnaires from the standpoint of invasion of privacy, we do not generally do that," would that be a correct situation?

Mr. CROWDER. I would say no.

We feel that the issues that concern us are, most of them, perhaps not all of them, issues which should be of equal concern to the sponsoring agency, and certainly this is one.

Mr. CORNISH. As a matter of fact, you review every Government program, do you not?

Mr. CROWDER. You mean the Budget Bureau?

Mr. CORNISH. The Bureau of the Budget.

Mr. CROWDER. Yes, but in a different sense.

The office that I represent has a function somewhat apart from the regular well-known budget function. It is called the Office of Statistical Standards. It is in the Budget Bureau because the Budget Bureau is the management arm of the President.

Mr. CORNISH. I will put it this way: Do you feel that the Bureau of the Budget has a special responsibility in regard to forms and questionnaires in determining their appropriateness?

Mr. CROWDER. Yes.

Mr. CORNISH. That it does not have perhaps in relation to other Government programs?

Mr. HORTON. Mr. Chairman, I think a new field has been opened up here and I feel that there ought to be more questioning on this, and perhaps we ought to have the witness make available to the staff, so that we can have a basis for further questioning, whatever forms and whatever information they might have filed in their office now, especially on these current forms.

As I understand the witness's testimony, he has in his office, or under his control, all these questionnaires that we have been asking about. So I think it would be appropriate to ask this witness to come back after the staff has had a chance to take a look at the information that they have in the office, so that we could have an opportunity to have further questioning.

Mr. ROSENTHAL. Mr. Crowder, you will make those materials and documents that you have in your office available to the staff, and you will be available for consultation and you will be, I assume, available to come back before the subcommittee to perhaps answer further questions that the staff may develop after these meetings with you?

(The information was provided to the staff.)

Mr. CROWDER. Yes, of course.

Mr. ROSENTHAL. With that understanding, you are excused and the special inquiry is adjourned.

(Whereupon, at 4 p.m., the subcommittee adjourned.)

SPECIAL INQUIRY ON INVASION OF PRIVACY

THURSDAY, SEPTEMBER 23, 1965

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON INVASION OF PRIVACY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2203, Rayburn Office Building, Hon. Cornelius E. Gallagher (chairman of the subcommittee) presiding.

Present: Representatives Cornelius E. Gallagher, Benjamin S. Rosenthal, and Frank J. Horton.

Also present: Norman G. Cornish, chief of special inquiry; Miles Q. Romney, associate general counsel, Government Operations Committee; and J. Philip Carlson, minority professional staff.

Mr. GALLAGHER. The subcommittee will come to order. The Chair has an opening statement to make before Dr. Ianni will testify.

Today's hearing is a continuation of a study by the special inquiry of the House Committee on Government Operations on the subject of invasion of privacy as it is related to certain investigative and data-gathering activities of the Federal Government. At our previous hearings, we examined the use of personality tests and questionnaires by Federal agencies in the employment picture. Two of our witnesses today intend to address themselves to that same matter.

However, the special inquiry also is interested in the use of personality tests and questionnaires in federally financed research activities. This is an equally important matter.¹ Our investigation of this subject shows that such tests have been given to hundreds of thousands of school children and college students across the country as a part of research projects sponsored by the Federal Government. Sometimes they are given to a vast sample involving half a million youngsters in many States, such as in Project Talent. In other cases, they are limited to certain regions, States, school districts, and individual schools.

The tests also vary in nature. Some are very intrusive in that they ask young people to answer intimate questions about their families, sex experience, religious views, their own personal values and other matters normally regarded as solely the private business of the individual. Others ask personal questions but attempt to keep invasion of privacy at a minimum. In some cases, parents are made aware of this testing and their permission and cooperation are actively sought. But in other cases, they have no knowledge whatsoever that their children are being asked such questions.

Staff investigators of the special inquiry have examined a number of these projects to determine whether Federal agencies are giving ade-

¹ See article entitled "Privacy and Behavioral Research" reprinted from the Columbia Law Review, November 1965, on p. 369 of the appendix.

quate attention to protection of privacy. The element of consent has been a prime consideration. Because of the nature of these tests, we feel that informed parental consent is necessary in research projects which involve school children under college age. When the Federal Government is participating in such research, we believe that such testing should be strictly voluntary and this should be made clear to all persons concerned, including the researcher, the school authorities, teachers, and parents.

Early in August, I, on behalf of the subcommittee and my colleagues, Mr. Rosenthal and Mr. Horton, wrote a letter to the U.S. Commissioner of Education, the Honorable Francis Keppel, noting the concern of the special inquiry on this matter and urging the adoption of new policies and guidelines to strengthen what we consider to be the right to privacy. The Office of Education shared our concern and immediately went to work to take such steps.

I would like the Chief of Special Inquiry to read into the record the exchange of this correspondence at this time.

Mr. CORNISH. This letter is dated August 6, 1965, and is addressed to the Honorable Francis Keppel, Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. COMMISSIONER: As you know, the special inquiry of the House Committee on Government Operations has been conducting an investigation of the problem of invasion of privacy as it is related to certain investigative and data-gathering activities of the Federal Government.

One of our most recent concerns has been the use of personality tests and questionnaires in research projects sponsored and financed by grants and contracts under the U.S. Office of Education. Many of these tests and questionnaires, which are given in schools across the country, ask students to answer intimate questions about their family life, sexual experience, religious views, their own personal values and other subjects normally regarded as solely the private business of the individual.

Inasmuch as the Federal Government is involved in this activity, it is our belief that new provisions should be added to the grants and contracts to make certain that protection of individual privacy is guaranteed at all times.

The provisions we propose would apply only to those projects involving (1) personality testing, and (2) questionnaires which elicit personal information beyond the ordinary needs of school administration.

The safeguard we propose should make it clear to all concerned that:

(1) The tests and/or questionnaires are strictly voluntary.
(2) Parental consent must be obtained in those cases involving students below the college level.

(3) A copy of the test and/or questionnaire is available for inspection by the parents in the event they wish to look at it before deciding whether to give consent.

(4) Parents be given a clear idea of the nature of the test and/or questionnaire when consent is sought. For example, they should be told the instrument asks questions about the student's sex life, family matters, religious views, etc.

We understand, of course, that this safeguard would require the researcher and school authorities to spend some additional time explaining the purpose of the project to parents. In the end, we believe it will result in greater support for, and understanding of, the research effort. At the same time, in those cases where parents do object, the right to privacy will be fully protected.

In addition, we urge that the problems of invasion of privacy be given specific consideration at the time a grant or contract is submitted for approval.

Joining with me in this request are the other members of the special inquiry, the Honorable Benjamin S. Rosenthal, the Honorable Frank J. Horton, and in connection with this particular investigation, the Honorable Henry S. Reuss.

Your office has been most cooperative in making available project files and other information to our staff investigators who have been studying this matter. We greatly appreciate the time and effort which has been expended.

With kind regards.

Sincerely yours,

CORNELIUS E. GALLAGHER,
Chairman, Special Subcommittee on Invasion of Privacy.

Mr. Chairman, the reply was dated August 27, 1965, addressed to the Honorable Cornelius E. Gallagher, House of Representatives, Washington, D.C.

DEAR MR. GALLAGHER: Thank you for your August 6 letter about provisions to guarantee protection of individual privacy in research projects financed through the Office of Education. May I say that we agree with you on the importance of these safeguards and controls to assure that the rights of the individual are protected.

We are now in the process of incorporating such provisions in the instructions for making application for support from our Bureau of Research and also in the grant and contract instruments. These seem to be the most appropriate ways to assure that researchers and school authorities are aware of problems related to possible invasion of privacy when they develop their proposals and also that the matter is given further attention at the time agreements are drawn.

I am pleased to know that your investigators found our staff helpful and assure you of our continuous cooperation.

Sincerely yours,

FRANCIS KEPPEL,
U.S. Commissioner of Education.

Mr. GALLAGHER. I think the result, which is being made public for the first time, is a major advance. I might say I am delighted that Dr. Francis Ianni, who is Acting Associate Commissioner for Research of the Office of Education, is our first witness. Dr. Ianni played an instrumental role in the adoption of these new policies. I think the Congress and the American people owe both Dr. Ianni and Commissioner Keppel a vote of appreciation.

In accordance with the rules of the inquiry, I would ask you to be sworn, Doctor.

Whereupon, Dr. Francis Ianni was called as a witness and, having been first duly sworn, testified as follows:

TESTIMONY OF DR. FRANCIS IANNI, ACTING ASSOCIATE COMMISSIONER FOR RESEARCH, OFFICE OF EDUCATION; ACCOMPANIED BY DR. HERBERT CONRAD, PROGRAM EVALUATION OFFICER FOR THE BUREAU OF RESEARCH

Mr. GALLAGHER. Doctor, you have a statement?

Dr. IANNI. Yes. I have with me also, Dr. Herbert Conrad, Program Evaluation Officer for the Bureau of Research, and he is the chairman of our committee which looks over proposals when they come in with questionnaires.

Mr. GALLAGHER. We are delighted to have you with us.

Dr. IANNI. Mr. Chairman and members of the Committee on Government Operations, in a letter of August 27 to the Honorable Cornelius E. Gallagher, chairman of the special inquiry of the House Committee on Government Operations, Commissioner Francis Keppel briefly expressed the position of the Office of Education regarding the "protection of individual privacy in research projects financed through the Office of Education." The purpose of the present statement is to restate and amplify this position.

The Office of Education recognizes the essential need to protect the public against questionnaire items which needlessly infringe on individual privacy. Both preventive and remedial measures have been in effect in our research program to eliminate such questions. We are presently adding additional steps to strengthen these measures. Preventively, instructions will be included in announcements to

prospective applicants for research funds, making clear that the Office of Education will carefully review all questionnaires submitted to it, to prevent injuring public sensitivities in such matters as the challenging of established morals, the invasion of privacy, the extraction of self-demeaning or self-incriminating disclosures, and the unnecessary or offensive intrusion of inquiries regarding religion, sex, politics, et cetera. In addition, the non-Government consultants who pass upon applications will be alerted to the importance attached to enforcing these instructions to applicants. Where the questionnaires are not fully developed until after project approval, the questionnaires will be examined by a special Internal Clearance Committee already established within the Office of Education. This committee will normally comprise at least three senior staff members (including, as Chairman, the program evaluation officer of the Bureau of Research); in difficult cases, the Chairman will call for the judgment of additional members and, if necessary, for the judgment of the Associate Commissioner for Research and the Commissioner of Education.

The procedure briefly sketched above indicates the importance that the Office of Education attaches to this matter. At the same time, the matter should be seen in proper perspective. In the first place, in very few projects supported by the Office of Education are questionnaires employed; and where questionnaires are employed, they attempt usually to collect objective information, such as the number of librarians, the academic qualifications of teachers, the kinds of courses offered in certain professional curriculums, figures on costs, et cetera. Out of the first 800 projects supported by the cooperative research program, for example, only 25 projects—or 3 percent—made use of personality questionnaires. Even in these cases, the issue of privacy is attenuated by the fact that, in the research studies supported by the Office of Education, the responses are used solely for statistical purposes and are not identified with any particular individuals. For all practical purposes, the individual's identity is "lost" in the statistics and the responses are fully as confidential as, say, responses made by persons answering census questions on age, marital status, education, employment, and income.

Let me also say that there is another side to this matter. School-children—and their parents—should respect and honor knowledge and learning; and they should be willing to cooperate in efforts to extend knowledge and learning which are essential to the advancement of the entire human race even when, individually, they gain no immediate personal benefits from doing so. Some such cooperation is essential if education is to be advanced as much and as rapidly as it must be.

The safeguards against the abuse of questionnaires may be classified as "professional," "institutional," and "governmental." Professional ethics help greatly to keep questionnaire items within reasonable bounds. Our various educational institutions, both public and private, have historically well protected their children against potential damage from researchers who may be excessively zealous. Finally, in the case of Government-supported research, the review panels and examining committees—and the diligence of congressional inquiries such as yours—exercise a restraining influence. In this connection, it deserves notice that the entire present governmental effort is coordinated by the Office of Statistical Standards, in the Bureau of the Budget.

In considering what is an undue intrusion of privacy, appropriate consideration must be given to the scientific need for the information. One can readily err in the direction either of excessive restriction or excessive leniency. At one extreme, merely asking a child for his age might be considered an intrusion of privacy, when the child is decidedly overage for his grade. Conversely, in an elaborate or comprehensive study of predelinquency, confined to a small number of intensively studied cases, it might be essential to seek more details about a child's activities and attitudes than would ordinarily be appropriate.

In determining the desirability of obtaining parental consent, the analogy with medical practice may be useful. Where a child is entrusted to a physician's care by the parent, the parent's consent to the particular methods of examination and treatment may be taken for granted, when the physician follows standard practice. Similarly, when a school superintendent or principal follows standard practice in encouraging his teachers and pupils to contribute briefly to educational research by answering the questions that are asked, it does not seem necessary to seek parental consent for each child who cooperates. The test or criterion is whether the questions which the researcher proposes to ask are factual, are not self-incriminating, and are similar to questions which have commonly been asked without ill effect in school systems in the past. Certainly, the large and valuable investigation called Project Talent, including over 400,000 pupils, would have been markedly hampered and probably rendered infeasible, if individual parental consent had been required before the project was undertaken. Ordinarily, it is much simpler to insist on the special scrutiny and, if necessary, the elimination of unessential or offensive questionnaire items in the first place, before the questionnaire is approved for use; and this is the current practice of the Office of Education. However, parental consent is another safeguard against the unjustifiable intrusion of privacy; and this safeguard will also be required by the Office of Education in all cases where it appears appropriate or necessary.

Thank you, Mr. Chairman.

Mr. GALLAGHER. Thank you, Doctor.

Dr. Ianni, I might say that the Office of Education is not the only Federal agency which has utilized personality testing, the questionnaires, in its research efforts. I might say that an overreliance on that, being coordinated by the Office of Statistical Standards and the Bureau of the Budget, is one of the reasons why this query has reviewed the entire matter.

At one time the Bureau had under its supervision and approval some 6,000 different questionnaires. Therefore, unless we do provide adequate safeguards, it is quite likely that at some point along the line the protections against intrusions won't be sufficient in order to get rapid approval of a particular set of questionnaires and therefore we welcome your statement.

I do feel, however, that in your last paragraph there appears to be an invitation not to obtain parental consent, as you say here, "In all cases where it appears appropriate and necessary."

Could you please define a little more clearly whether or not parental consent will be mandatory or whether it will be obtained where it appears appropriate or necessary?

Dr. IANNI. Let me see if I can draw the distinction between these situations. We presently review all questionnaires which come to the Office of Education. As a necessary first course, before we approve any research project, consent has to be obtained from the school system where the school system is going to be used for research, let's say, by an investigator who is present at a university.

Now, we subject all of these questionnaires to review by the Internal Clearance Committee and we feel that preventive measures are perhaps the best to use in this particular situation. So we would review these very carefully.

There are certain situations where obtaining direct parental consent could conceivably create considerable difficulty. One obvious situation would be where the research deals with mentally retarded youngsters or with individuals who are mentally ill, or where the sample contains so many cases that this could create some difficulty. We would prefer in these situations to insure that the children's involvement is voluntary but without demanding individual parental consent as a preceding concern for the Office of Education. And we would leave this to the school system to obtain.

Mr. GALLAGHER. Well, I can't envision the propriety of a retarded child volunteering without parental consent.

Dr. IANNI. May I ask Dr. Conrad to comment on this? He has been reviewing these proposals all along and could give some better evidence than I can.

Dr. CONRAD. Well, most of the questionnaires—in fact all that I have seen lately—have not asked questions of a psychiatric nature. They have not asked about religious feelings, and I haven't seen any on the area of sex, and so on. I know that a good many of the questions that have been submitted on a sheet here are bad examples with a very strong psychiatric flavor. We would eliminate such questions because we don't believe that questionnaires can take the place of a psychiatric interview.

There are other ways of getting this kind of information. The questionnaire is not the appropriate way to do it, as we see it.

Now, in the case of an examination in depth, if the questionnaire method were used, we would certainly require that the parental consent be obtained. But if, on the other hand, a child is asked to give his age, residence, and asked whether he likes school, what subjects he likes best, what kind of occupation he thinks he will go into—which is the kind of question that is most common—these are, so to speak, everyday questions and we feel that the child ought to cooperate in answering such questions to help advance knowledge, and that parental consent, specific parental consent, won't be necessary, and parents would be surprised to receive such a request.

Mr. CORNISH. Doctor, these are the instances where you won't ask for parental consent, is that right?

Dr. CONRAD. Yes.

Mr. CORNISH. The instances where you will ask for parental consent are the areas where you get into sensitive questions such as on sex and religion, and so forth? That is the distinction you make?

Dr. CONRAD. That's right, sir. We in general would prefer that such questions not be asked by questionnaire method. Such information is not best obtained by questionnaire methods.

Mr. GALLAGHER. Doctor, I would not want to suggest in any way what questions should be asked or what questions shouldn't or are relative to the advancement of whatever particular project you may have in mind. But I do think that it is necessary to define when parental consent will be obtained and perhaps we are not talking of the common questions of where do you live and how do you like school. We are talking of the uncommon questions that are becoming common.

These questions here that do pertain to religion, family, family relations, racial groups, all of these questions that we have here were obtained from your files and therefore how strongly or how often they are used is something that someone in your office is aware of. It is the answers to these questions that we feel strongly are intrusive and violative of one's privacy and parental consent should be obtained.

Dr. CONRAD. We will eliminate these questions. The kind of questions you see here were asked in studies prior to Dr. Ianni's administration and prior to any participation I had in the enterprise.

Mr. GALLAGHER. You are now reinforcing your statement by saying that this type of question with regard to religion, race, family relationships, will now be eliminated?

Dr. CONRAD. I would say with regard to family relationships; with regard to religion, let me qualify and say that questions on feelings about religion won't, in general, be permitted without parental consent. But in the matter merely of religious affiliation, as to whether preference is Catholic, Protestant, so on, we have required that an alternative be offered, "prefer not to answer," as a specific choice available to the individual responding. Ordinarily, when a person is answering a questionnaire, nobody knows whether he answers a particular question or not. He is not under pressure from the teacher to answer a particular question, and if he has the alternative, "prefer not to answer," it seems to me this covers the situation.

We have not had any questions on religious feeling, such as belief in the nature of God and one's closeness of feeling with God, and so forth. We have had only the question of religious affiliation and we insist the choice be offered, "prefer not to answer."

Mr. GALLAGHER. There is another entire area here we feel is intrusive. Questions about one's relationship with parents, what their income is estimated at by the children, what kind of house they live in, "I am fairly happy with my home life," the type of questions the average child would innocently answer, from which answers could be drawn an entire script of "Peyton Place," and this is the type of thing that we are finding very objectionable to have the entire family history of individual children become part of the discussion group in the faculty centers and it is in this type of thing that we are directing our attention to.

We feel that parental consent should be required and parental knowledge prior to that consent should be obtained.

Is this your understanding?

Dr. IANNI. We are saying the same thing. There are some items which are perhaps better gathered by means other than questionnaires, by depth interviews, for example—and we have consistently attempted to encourage these techniques in our studies. But where we feel there is the possibility of intrusion into privacy, we will insist on parental consent in these situations.

Mr. CORNISH. Dr. Ianni, that includes, of course, some of the commercial personality tests that we have discussed?

Dr. IANNI. Yes.

Mr. CORNISH. Mr. Chairman, the staff has prepared two sets of examples taken from the various tests which have been given under grants and contracts from the Office of Education. I ask that they be inserted in the record at the appropriate place along with two letters from the Office of Education.

Mr. GALLAGHER. Without objection, it is so ordered.

(The documents referred to follow:)

The following are examples of intrusive questions contained in various personality questionnaires which were a part of federally financed research projects in schools and colleges:

How large a savings account do you have?

1. (I do not have a savings account.)
2. less than \$50
3. \$50 to \$200
4. \$200 to \$500

What is *your* religious preference?

1. Protestant
2. Catholic
3. Jewish
4. other religion
5. (I have no preference)

How often do you attend religious services?

1. regularly each week
2. occasionally
3. seldom
4. never

To which racial group does your *father* belong?

1. White
2. Negro
3. American Indian
4. Oriental (Chinese, Japanese, Korean, etc.)
5. (other—specify on answer sheet)

To which racial group does your *mother* belong?

1. White
2. Negro
3. American Indian
4. Oriental (Chinese, Japanese, Korean, etc.)
5. (other—specify on answer sheet)

How much education does your *father* have?

1. some grade school
2. graduated from grade school
3. some high school
4. graduated from high school
5. business or training school after high school
6. some college
7. graduated from college
8. graduate or professional school after college

How much education does your *mother* have?

1. some grade school
2. graduation from grade school
3. some high school
4. graduation from high school
5. business or training school after high school
6. some college
7. graduation from college
8. graduate or professional school after college

What is the religion of your family?

1. (They do not have a religion.)
2. Protestant
3. Catholic
4. Jewish
5. mother and father of different religions
6. (other religion—specify on answer sheet.)

How do you feel about the size of your family's income?

1. proud
2. satisfied
3. indifferent
4. dissatisfied
5. ashamed

How would most people in the community classify the social standing of your family?

1. as one of the highest in the community
2. above the average family in the community
3. about the same as the average family in the community
4. below the average family in the community
5. as one of the lowest in the community

How do you feel about the social standing of your parents?

1. proud
2. satisfied
3. indifferent
4. dissatisfied
5. ashamed

Major decisions in my family are usually made by:

1. father
2. mother
3. some other person
4. discussion and common agreement

As to my relationship with my *father*:

1. We are very close and affectionate
2. We are close, but seldom show affection
3. We are neither close nor affectionate
4. He is indifferent to me
5. He seems to dislike me

As far as I am concerned, my relationship with my *father* is:

1. Completely satisfactory
2. fairly satisfactory
3. neither satisfactory nor unsatisfactory
4. somewhat unsatisfactory
5. completely unsatisfactory

As to my relationship with my *mother*:

1. We are very close and affectionate
2. We are close, but seldom show affection
3. We are neither close nor affectionate
4. She is indifferent to me
5. She seems to dislike me

As far as I am concerned, my relationship with my *mother* is:

1. completely satisfactory
2. fairly satisfactory
3. neither satisfactory nor unsatisfactory
4. somewhat unsatisfactory
5. completely unsatisfactory

When you consider the education of your parents, the books and magazines they read, the radio and television programs they prefer, etc., how would you classify the cultural level of your home?

1. among the least cultured in the community
2. below the average home of the community
3. just average
4. above the average home of the community
5. among the most cultured in the community

How do you feel about the cultural level of your home?

1. proud
2. satisfied
3. indifferent or resigned
4. dissatisfied
5. ashamed

Which of the following is the *best* description of how you feel about your life at home?

1. I am completely happy with my life at home and can see practically no way of improving it
2. I am happy with my life at home, but there are ways in which it could be improved
3. I am fairly happy with my life at home, but there are many ways in which it could be improved
4. I am unhappy with my life at home because so many things are wrong.
5. I am unhappy with my life at home and wish I could go away.

What is your father's religious preference?

- A. Catholic
- B. Protestant
- C. Jewish
- D. Other
- E. No preference

What is your mother's religious preference?

- A. Catholic
- B. Protestant
- C. Jewish
- D. Other
- E. No preference

Which of the following is the *best* description of your "dating"?

- A. I am going "Steady"
- B. I have quite a few dates, but no "steady"
- C. I have occasional dates, usually with the same person
- D. I have occasional dates, usually with different persons
- E. I seldom or never have dates

How many times a month do your parents (or guardians) have friends in their home for parties or other social affairs?

- A. 5 or more
- B. 3 or 4
- C. 1 or 2
- D. Less than one
- E. Never

Has your mother ever worked outside your home?

- A. No
- B. Yes, regular part-time work
- C. Yes, occasional part-time work
- D. Yes, regular full-time work
- E. Yes, occasional full-time work

How long has your mother worked outside your home?

- A. Has not done this
- B. 12 months or less
- C. 13 to 24 months
- D. 25 to 36 months
- E. 37 months or longer

What kind of car does your family own?

- A. A new expensive car
- B. A new medium- or low-priced car
- C. A used car
- D. A foreign car
- E. A sports car

What is the present value of your parent's home?

- A. Under \$7,500
- B. \$7,600 to \$15,000
- C. \$15,100 to \$22,500
- D. \$22,600 or over
- E. Not home-owners

Mark all of the items which you have at home

- | | |
|---------------------------------|---------------------------|
| A. Telephone | A. A tennis racket |
| B. Piano | B. Golf clubs |
| C. Television | C. Vegetable garden |
| D. Phonograph | D. Pictures or tapestries |
| E. Two or more radios | E. Horses |
| A. Electric dishwasher | A. Silo |
| B. Electric or gas refrigerator | B. Plow |
| C. Hi-fi set | C. Tractor |
| D. Movie camera | D. Fruit trees |
| E. Vacuum cleaner | E. Wall-to-wall carpeting |
| A. Two or more bathrooms | A. Hand tools |
| B. Air conditioning | B. Electric tools |
| C. Sterling silver | C. Dictionary |
| D. Home freezer | D. Encyclopedia |
| E. Wood or oil stove | E. Wall safe |
| A. Two or more cars | A. A room of my own |
| B. Running water | B. A study desk |
| C. Electric lights | C. A recreation room |
| D. Typewriter | |
| E. Bicycle | |

In which of the following activities has your mother been active?

- A. Church or religious groups, teaching Sunday school
- B. Card clubs
- C. Parent-Teacher Association
- D. Women's club
- E. Sewing club
- A. Dramatics or little theatre groups
- B. Political groups
- C. Labor union
- D. Golf, tennis, or country club
- E. Band or orchestral group
- A. Professional organization
- B. Charity drives
- A. Social club
- B. Study, art, or civic club (league of Women Voters, WCTU, DAR, Lincoln Club, Jeffersonian Club, etc.)
- C. Trade organization
- D. College or university alumni club
- E. Management association

In which of the following has your father been active?

- A. Church or religious clubs
- B. Teaching Sunday school
- C. Card club
- D. Parent-Teacher Association
- E. Dramatics or little theatre group
- A. Political group
- B. Labor union
- C. Band or orchestral group
- D. Social fraternal clubs (Masons, Elks, dance, etc.)
- E. Study, art or service club (Rotary, Jacksonian, Lincoln, Lions, Kiwanis, Rotarians, Chamber of Commerce)
- A. Trade organization
- B. College or university alumni club
- C. Management association
- D. Professional organization
- E. Charity drives
- A. Sports or athletic clubs (hunting, fishing, golf, tennis)
- B. Baseball, football, or other team sports
- C. Active military reserve unit
- D. Veteran's club (American Legion, Veterans of Foreign Wars, etc.)

Which of the following magazines does your family subscribe to or purchase regularly?

- | | |
|-----------------------------|-------------------------------|
| A. Atlantic Monthly | D. Look |
| B. Fortune | E. McCalls |
| C. Harper's | A. U.S. News and World Report |
| D. National Geographic | B. Popular Science |
| E. Reader's Digest | C. Nations Business |
| A. Saturday Review | D. Newsweek |
| B. Time | E. Photoplay |
| C. American Home | A. Popular Aviation |
| D. Better Homes and Gardens | B. Science |
| E. Field and Stream | C. Sports Afield |
| A. Good Housekeeping | D. True |
| B. Esquire | E. Argosy |
| C. Life | A. Breezy Stories |
| D. New Yorker | B. Real Detective Magazine |
| E. Parent's Magazine | C. Silver Screen |
| A. Physical Culture | D. Sweetheart Stories |
| B. Popular Mechanics | E. True Story |
| C. Saturday Evening Post | A. Farm Journal |
| D. House Beautiful | B. Progressive Farmer |
| E. House and Garden | C. Successful Farmer |
| A. Hygeia | D. Prairie Farmer |
| B. Ladies Home Journal | E. Farm and Ranch |
| C. Business Week | |

How many grades of school did your father complete?

1. No regular schooling
2. Less than 7 years
3. 7 to 9 years
4. At least 10 years, but didn't graduate from high school
5. Graduated from high school
6. Some college
7. Graduated from college
8. Don't know

How many grades of school did your mother complete?

1. No regular schooling
2. Less than 7 years
3. 7 to 9 years
4. At least 10 years, but didn't graduate from high school
5. Graduated from high school
6. Some college
7. Graduated from college
8. Don't know

How often do your parents (one or both) go to church?

1. More than once a week
2. About once a week
3. About twice a month
4. About once a month
5. Several times a year
6. About once a year
7. Less than once a year

How often do you go to church?

1. More than once a week
2. About once a week
3. About twice a month
4. About once a month
5. Several times a year
6. About once a year
7. Less than once a year

How does your home compare with the homes of other young people you know?

1. My home is neater and cleaner than most
2. It is about average
3. It is less clean and neat than the average

Do you respect your mother's opinions about the important things in life?

1. Not at all
2. Very little
3. Somewhat
4. Very much
5. Completely

How close do you and your *father* feel toward each other?

1. Not at all close
2. Not particularly close
3. Moderately close
4. Quite close
5. Extremely close

How often do your parents quarrel or argue with each other?

1. Very often
2. Frequently
3. Now and then
4. Very seldom
5. Never

How happy do you think your parents' marriage is?

1. Quite unhappy
2. Slightly unhappy
3. Somewhat happy
4. Fairly happy
5. Very happy
6. Completely happy

In general, would you say your home life is more happy or less happy than that of other young people you know?

1. Much more happy
2. Quite a bit more happy
3. A little bit happier
4. About average
5. A little less happy
6. Quite a bit less happy
7. Much less happy

When your parents aren't around and you think they will never find out, how often do you do things they would not approve of?

1. Very often
2. Frequently
3. Once in a while
4. Very seldom
5. Never

In general, what kind of a reputation do you think your family has in the community?

1. Very good; a top family
2. Above average; looked up to
3. About average; fairly good
4. Just so-so
5. Rather poor reputation

In the following test, students were asked to give one of five responses. They were: false or does not apply, generally true but of no concern, true but of little concern, true but of much concern, and true and of greatest concern:

I am ashamed sometimes of the way my parents behave.

Housekeeping in our house is disorderly.

Some of my family members do not know good table manners.

My parents quarrel and fight much of the time.

Our family seems to have more problems than others in our neighborhood.

In another test, students also were asked to signify one of five answers which described the degree of how they actually felt about the following statements in relationship to themselves:

I don't seem to have very much basic respect for myself.

I live in accordance with the idea that "It is better to have loved and lost than never to have loved at all."

I used to wish very often that my parents and I could be much closer.

Thinking back, in a good many ways I don't think I have liked myself very well.

My parents and I may get along all right on the surface, but down deep I wonder if we even know each other.

When I think about the kind of person that I have been in the past, it doesn't make me feel very happy or proud.

In the following test, students were asked to complete the sentence "with the first word that comes to mind." They were instructed not to use more than one word:

My childhood was
 My father me.
 My sometimes gets me into trouble.
 Secretly, I often dream of
 God is
 If only my parents were more
 Men often women.
 I feel when I think of myself as a woman.
 My father's chief fault is his
 I hope I never
 My mother's chief fault is her
 makes me furious.
 is disgusting.
 I don't like to think about

The following are examples of questions from two commercially published personality tests used in educational institutions as part of federally financed research projects:

TRUE OR FALSE?

Once in a while I think of things too bad to talk about.
 Evil spirits possess me at times.
 I believe in a life hereafter.
 I believe my sins are unpardonable.
 I have been disappointed in love.
 I dream frequently about things that are best kept to myself.
 I believe there is a devil and hell in afterlife.
 Religion gives me no worry.
 I feel sure there is only one true religion.
 I deserve severe punishment for my sins.
 I am a special agent of God.
 Christ performed miracles * * *.
 I pray several times a week.
 I read the Bible several times a week.
 I like movie love scenes.

Students also have been asked to indicate whether they are troubled by the following problems:

Deciding whether I'm really in love.
 Wondering whether to go steady.
 Wondering if I really know my prospective mate.
 In love with someone of a different religion.
 Wanting love and affection.
 Disappointed in love affair.

Too deeply involved in love affair.
 Having to break up love affair.
 Petting and necking.
 Thinking too much of opposite sex.
 Wondering how far to go with opposite sex.
 Finding it hard to control sex urges.
 Repelled by thoughts of sexual relations.
 Needing information about sex.
 Being too inhibited in sex matters.
 Being underdeveloped sexually.
 Fear of having a child.
 Lacking in sex appeal.
 Having a troubled or guilty conscience.
 Afraid of being found out.
 Sometimes dishonest.
 Having unusual sex desires.
 Bothered by sexual thoughts or dreams.
 Worried about the effects of masturbation.
 Sexual needs unsatisfied.
 Sexually attracted to some of my own sex.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
 OFFICE OF EDUCATION,
 Washington, D.C., March 29, 1965.

Mr. NORMAN CORNISH,
 Chief of Special Inquiry,
 House Committee on Government Operations,
 Washington, D.C.

DEAR MR. CORNISH: The following information is provided in response to your request for information related in uses of personality tests or psychological inventories in research supported under the cooperative research program.

A. Confidentiality and anonymity:

Confidentiality and anonymity are assured to individuals, institutions, associations, and even governmental units who are respondents in research. This is a firm rule of all reputable researchers and research organizations and is adhered to as firmly as in the Census Bureau, Social Security Administration, or the Internal Revenue Service.

By statute, the cooperative research program can only contract with the universities, colleges, and State departments of education. These organizations not only conduct research, but also generate and receive from various sources confidential reports and records about staff and students. Funds from the cooperative research program allow these organizations to collect additional data which in some cases including personality data but persons conducting the research are constrained by the same ethical considerations, confidentiality, and anonymity, in this case, as are exercised in all their professional relationships and judgments.

Moreover, researchers are interested only in valid and reliable relationships among specified variables. Individual names are not of interest and are not coded. Code numbers only are used to collate data for analyses.

In addition, the process by which research proposals are evaluated and screened for contracting is based upon procedures which protect against unethical practices in research. All proposals are reviewed by Office of Education staff and by recognized experts in the field of the proposed study, the latter usually being staff members of colleges and universities. Only proposals recommended favorably by advisory panels are supported. Part of the review process includes assessment of the appropriateness and scientific value of data gathering instruments.

A further protection to potential respondents, especially schoolchildren, is the requirement that researchers must obtain cooperation from schools in which they wish to collect data. Schools are free to cooperate with or to refuse to participate in a study or to require revision of questionnaires before allowing their use. And many schools exercise this prerogative.

B. In the period from July 1, 1959, to June 30, 1964, 25 of the 626 projects supported by the cooperative research program involved assessment of personality characteristics. The negotiated cost of studies in which personality factors were main considerations was \$1,548,473. Of this amount an estimated \$399,456 was used for the collection and analysis of personality data. These amounts do not include Project Talent.

C. Project Talent is a long-term longitudinal study with a national sample representative of America's high school children in the 10th through 12th grades in the year 1960.

A comprehensive aptitude and abilities test battery was developed and standardized using this sample. Followup studies are designed to obtain accurate and reliable knowledge of what the post-high-school experience and achievements have been. The data for this project are typical of the kinds of student personnel data used in the average American high school. Specimens of the tests and the questionnaires are appended. The Project Talent researchers have adhered to an inflexible policy of maintaining absolute confidentiality and anonymity of data.

Of the almost \$1.4 million that has been invested in the original collection of data for Project Talent, it is estimated that 2 percent of approximately \$28,000 of the total was used for the collection and analysis of personality data.

The Office of Education also supported a 1-year followup of persons included in the original Project Talent sample. No personality tests or inventories were included in the followup investigation.

D. During the period July 1, 1959, to June 30, 1964, 217 research and dissemination projects concerned with new educational media were initiated under title VII of the National Defense Education Act. Of these projects four involved assessment of personality characteristics. The cost of these four projects was \$238,657. Of this amount approximately \$7,159, or 3 percent, was used for the collection and analysis of personality data.

Sincerely yours,

RALPH C. M. FLYNT,
*Associate Commissioner,
Educational Research and Development.*

List of projects

Project No.	Contractor and address	Investigator	Duration
906	University of North Carolina, Chapel Hill, N.C.	Richard L. Simpson.....	May 1960-September 1964.
954	Florida State University, Tallahassee, Fla.	Wallace A. Kennedy, Vernon Van Des Riet, James C. Whites, Jr.	September 1960-December 1961.
961	Syracuse University, Syracuse, N.Y.	Catherine S. Chilman.....	October 1960-September 1962.
1008	University of Georgia, Athens, Ga.	Joseph C. Bledsoe.....	September 1960-August 1962.
1018	University of Puerto Rico, Rio Piedras, P.R.	Millard Hansen.....	September 1960-September 1962.
1060	University of Southern California, Los Angeles, Calif.	Phillip R. Merrifield, Sheldon F. Gardner.	July 1960-August 1961.
1108	University of North Carolina, Chapel Hill, N.C.	Charles E. Bowerman, Ernest Q. Campbell.	September 1961-August 1965.
1186	California State Department of Education, Sacramento, Calif.	Nadine Lambert.....	August 1961-October 1962.
1218	Johns Hopkins University, Baltimore, Md.	James L. Kuethe.....	July 1961-October 1961.
1286	University of Michigan, Ann Arbor, Mich.	Warren A. Ketcham.....	September 1961-August 1964.
1329	Oklahoma States University, Stillwater, Okla.	Robert E. Sweltzer.....	September 1961-August 1962.
1351	Texas Christian University, Fort Worth, Tex.	Saul B. Sells.....	September 1961-August 1966.
1352	University of Illinois, Urbana, Ill.	Robert L. Spaulding.....	October 1961-October 1962.
1353	University of Southern California, Los Angeles, Calif.	William Larson and others....	April 1962-September 1963.
1411	University of Illinois, Urbana, Ill.	Raymond B. Cattell.....	September 1961-August 1964.
1592	Southern University, Baton Rouge, La.	Comrade L. Henton.....	May 1962-April 1964.
1636	Michigan State University, East Lansing, Mich.	Wilbur B. Brookover, Don E. Hamachek, Jean Le Pere.	April 1962-September 1964.
1717	University of Florida, Gainesville, Fla.	Ira J. Gordon.....	October 1962-January 1964.
1770	Carnegie Institute of Technology, Pittsburgh, Pa.	Rachel Inselberg.....	August 1962-May 1964.
1781	University of Texas, Austin, Tex.	Robert F. Peck.....	September 1962-June 1967.
2016	Northern Illinois University, Dekalb, Ill.	Erwin J. Lotsof, William H. James.	September 1963-August 1966.
2438	State Department of Public Instruction (for Wayne County School District), Lansing, Mich.	Allen L. Bernstein, June P. England, J. Edwin Keller.	
2615	University of Southern California, Los Angeles, Calif.	Newton S. Metfessel.....	May 1964-April 1966.
2616	University of Texas, Austin, Tex.	Beaman N. Phillips.....	July 1964-August 1966.
226	University of Pittsburgh, Pittsburgh, Pa.	John C. Flanagan and others..	July 1967-June 1962.
D-040	New York State Education Department, Albany, N.Y.	Benjamin Cohen.....	October 1961-September 1963.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF EDUCATION,
Washington, D.C., June 30, 1965.

Mr. NORMAN CORNISH, *Chief of Special Inquiry,*
House Committee on Government Operations,
Longworth Building, Washington, D.C.

DEAR MR. CORNISH: We are happy to provide additional information requested regarding use of personality inventories in projects supported by funds from the cooperative research program and new media research program (title VII, NDEA), Office of Education. Information about the cooperative research projects is listed first.

Specimen of the personality inventories for three of the cooperative research projects which are the subject of the memorandum are not yet accessible because these studies have not yet been prosecuted to the point that the specimen have been sent into this office.

Enclosed as exhibit I is a list of 17 commercial personality inventories used in 11 of the cooperative research projects discussed in the letter sent to you on March 29, 1965. These personality inventories are available through commercial outlets and are so widely used that the cooperative research program does not have copies on hand. Descriptions of these personality inventories are given in "The Fifth Mental Measurements Yearbook," Oscar Krisen Buros, editor, Gryphon Press, Highland Park, N.J., 1959.

Also enclosed are 17 specimens of the personality inventories used in 13 of the 25 cooperative research projects about which information was sent to you previously.

In addition, earlier assessment indicated that four projects initiated under title VII, NDEA included use of personality inventories. One project used the "California Test of Personality and the Mooney Problem Check List" (both listed previously). Another used the "DF Opinion Questionnaire," by J. P. Guilford, Paul Christensen, and Nicholas Bond, published by the Sheridan Supply Co. (a copy was not in our files) and the "College Questionnaire" (see p. 194 of the enclosed report for Project 221). In another study, the "Omnibus Personality Inventory," published by the Center for the Study of Higher Education, University of California, was used, and in the final study, the "Stern Activities Index," by George G. Stern, Syracuse University, was employed; however, we have no copies of these instruments. If we can be of further assistance, please let us know.

Sincerely yours,

RALPH C. M. FLYNT,
Associate Commissioner for
Educational Research and Development.

EXHIBIT I

Commercial tests used in Office of Education research projects

Author(s)	Name of study	Publisher
Elizabeth T. Sullivan, Willis W. Clark, Ernest W. Tiege.	California Short-Form Test of Mental Maturity.	California Test Bureau.
Louis P. Thorpe, Willis W. Clark, Ernest W. Tiege.	California Test of Personality 1953 revision.	Do.
David Wechsler.....	Wechsler Intelligence Scale for Children.	Psychological Corp.
Elizabeth T. Sullivan, Willis W. Clark, Ernest Tiege.	California Test of Mental Maturity.	California Test Bureau.
Harrison G. Gough.....	California Psychological Inventory.	Consulting Psychologists Press, Inc.
H. H. Rommets, Benjamin Shumberg, Arthur J. Drucker.	SRA Youth Inventory.....	Science Research Associates.
Ross L. Mooney, Leonard V. Gordon.	Mooney Problem Check List 1950 revision.	Psychological Corp.
Guy E. Buckingham.....	Personal Adaptability Test.....	Public School Publishing Co.
Starke R. Nathaway, J. Charnley McKinley.	Minnesota Multiphasis Personality Interview.	Psychological Corp.
Joice B. Stone.....	S-O Rorschach Test.....	California Test Bureau.
Lauretta Bender.....	Bender-Gastalt Test Visual Meter Gastalt Test.	American Orthopsychiatric Association, Inc.
Louis P. Thorpe, Charles E. Meyers, Marcella Ryser Sea.	What I like to do: An Inventory of Children's Interest.	Science Research Associates, Inc.
Ernest W. Tiege, Willis W. Clark.	California Achievement Test 1957 edition.	California Test Bureau.
Truman L. Kelley, Richard Madden, Eric F. Gardner, Lewis M. Terman, Giles M. Ruch.	Stanford Achievement Test 1953 revision.	Harcourt, Brace, & World, Inc.
Lewis M. Terman, Maud A. Merrill.	Stanford-Binet (revised Stanford-Binet Intelligence Scale, third revision).	Houghton Mifflin Co.
Gwen Andrew, Samuel W. Hartwell, Max L. Hutt, Ralph E. Walton.	The Michigan Picture Test.....	Science Research Associates, Inc.
George G. Stern.....	Stern Activities Index.....	Psychological Research Center.

Mr. ROSENTHAL. Doctor, I am somewhat hazy and dubious about parental consent, because it seems to me when you ask a parent for consent, he ought to know what he is consenting to. In the situations you have dealt with, when you ask for parental consent, do they have any idea at all what they consent to?

Dr. IANNI. Our definition of parental consent includes the word "informed." We feel they should be informed of the types of tests used.

Mr. ROSENTHAL. How extensive is the information you give to them prior to their executing the consent?

Dr. IANNI. This is a new procedure to us. We are working on it at the present time. They should know the types of tests used, the purpose of the research, the fact they will be kept confidential, and try to relate all of these factors to the specific purpose of the test.

Mr. ROSENTHAL. Are you in the process of preparing an information sheet or something of that nature that you will give?

Dr. IANNI. We are working on this at the present time. We would, however, have to handle this on a project-by-project basis because the questionnaires developed sometimes are considerably different from one research project to another.

Mr. ROSENTHAL. We have investigated Peace Corps tests. These youngsters gave their consent implicitly by attending the testing session. But this still didn't waive any constitutional invasions of the rights of privacy, and I am extremely dubious whether the parent, without a complete and exhaustive knowledge of what test will be given, can waive that right of invasion of privacy.

I assume this is something you will look into?

Dr. IANNI. Yes, sir.

Dr. CONRAD. May I say that every educational institution is supposed to impart knowledge and it is also supposed to contribute to the advancement of knowledge. And if the school system does not contribute to the advancement of knowledge, it is falling short of one of its purposes.

In the advancement of knowledge sometimes a child needs to learn to cooperate. He ought to learn to honor some social values, to recognize, for example, the value of the Red Cross. That has nothing to do with reading, writing, and arithmetic. But the child must be developed into a social person, a good citizen; and the schools use the Red Cross and disaster relief and so on as a means of getting the child to actively become a good, cooperative citizen.

Now, the advancement of learning, the advancement of knowledge, of educational knowledge, is something that the schools also have an obligation to think about, and there is a certain balancing between—

Mr. ROSENTHAL. They don't have the obligation at the expense of the Constitution, though.

Dr. IANNI. We agree with that.

Dr. CONRAD. I am not opposed to the Constitution. The Constitution, as I understand it, mentions religion, and we have been extremely careful to insist that nobody be asked a question on religion unless they were explicitly willing to answer. They have the alternative to "prefer not to answer."

Mr. ROSENTHAL. Let me ask one other question.

I always wonder about the psychological background of the people who make up these questions. On page 9 of the memorandum the committee staff prepared, of what we considered to be objectionable questions, I wonder if you could draw any inference from the fact, for example, that they haven't included Playboy magazine among those that persons subscribe to in our home.

Do you think there is any significance to something like that?

Dr. IANNI. It could either be a function of the fact that the test developer had never heard of Playboy—which is improbable.

Mr. GALLAGHER. Then he is in need of personality testing.

Dr. IANNI. Or it could be that the purposes of the research simply didn't include this as a possibility.

Mr. ROSENTHAL. Even though—I have no commercial interest in the magazine. I understand it has a large circulation. I just wondered if—

Dr. IANNI. I think there is probably an easier answer. That is, that many of these examples in the memorandum are drawn from early in the history of the research program. And conceivably—I don't know how long Playboy has been in existence, but this may have been before Playboy's time.

Mr. ROSENTHAL. So that assuming that to be so, you won't want to draw any inference concerning the psychological background of the person who prepared such a question?

Dr. IANNI. Not on that basis, no.

Mr. GALLAGHER. It might be included under (a) Breezy Stories. That is listed.

Doctor, we are interested in your statement of the contribution to the advancement of knowledge, but we feel that these tests shouldn't be used in the advancement of gossip and therefore make the advancement of knowledge counterproductive to the intent of the child developed.

Mr. Horton?

Mr. HORTON. Thank you, Mr. Chairman.

I am not sure, Doctor, that I quite understand the difference between your procedure now and the procedure which you had been practicing. I don't think it is spelled out.

Dr. IANNI. In the past our review of proposals was handled primarily by consultants from outside the Office of Education. We had a system wherein the proposal was reviewed by a panel of 5 to 10 experts who reviewed it from the point of view of the scientific merit of the research.

Now, wherever this committee did feel there was some question of policy they could refer this question to the Office, which could then be resolved by the staff.

The new policy involves the setting up of an internal committee of staff members of the Office of Education who look at research projects from the point of view of policy, including possible intrusions into privacies.

Mr. HORTON. Then it is my understanding from what you have just said that you did have a group that was without the Education Department that was passing upon these projects, but now you have a so-called in-house—

Dr. IANNI. In addition to the outside technical reviewers.

Mr. HORTON. It is my understanding that the in-house operation will function in each and every application for a project.

Dr. IANNI. Yes. We actually have two separate internal committees. One which reviews every project and a separate internal committee which reviews those that include questionnaires or similar tests.

Mr. HORTON. Are there projects which go to the questioning of children in grammar school as distinguished from high school and as distinguished from college groups, and if so, would you put a special emphasis on checking any type of project that would be involved in the grammar school as opposed to the high school and college level?

Dr. IANNI. Well, I think we would check all of them but we could obviously put more emphasis on one level than another.

Mr. HORTON. Is it your intention to do that?

Dr. IANNI. I think yes, we probably would.

Mr. HORTON. Do you have projects that go to the questioning of children in grammar school as separate from high school?

Dr. IANNI. We have very few of these actually. Most of our research which involves questionnaires deals with high school students. Project Talent, for example, which we mentioned before, which is the largest one we have, dealt exclusively with high school students. Very few deal with elementary school students.

Mr. HORTON. Now if you had a project which was going to have a questionnaire which would be in the personality or psychological testing field, then it is my understanding that you would require by contract parental consent prior to the taking of the test by the children involved.

Dr. IANNI. That's correct.

Mr. HORTON. And this would involve informing parents?

Dr. IANNI. Yes.

Mr. HORTON. Your answer to Mr. Rosenthal, I didn't detect from your answer that they would be given an opportunity to see the specific test that the children were going to be taking. Is it your purpose, or is it your intention that they would be given an opportunity to look at the specific test?

Dr. IANNI. This again is a situation which would, I think, differ in various cases. I think we would have to always let the investigator know his responsibility for this. In many cases I think this would probably mean that the research won't be conducted because there are situations where disclosure of the items in a test would so seriously reduce the effectiveness of the research that the research probably couldn't be conducted. But in those cases where we did insist on it, it would be in the principal's office.

Mr. HORTON. And it is also my understanding from your testimony that you will be very careful with regard to any type of questioning of students in any of these project tests.

Dr. IANNI. Yes, sir. I would prefer to say we will continue to be careful. I think we have been careful in the past. This is not—this element of care is not new for us. I think some procedures are new, but we have continuously been aware and worried about this situation, and I think we would continue to be so in the future.

Mr. HORTON. We have been talking about research projects that are approved by the Office of Education. Are there other types of testings that you approve? Do you, as the Office of Education, approve tests that are given in the State systems or in special school programs?

Dr. IANNI. No, we don't. I think this is something else important to point out: our program is a research program and consequently this deals only with the research use of personality tests and with questionnaire items.

Mr. HORTON. Thank you.

Mr. GALLAGHER. Doctor, if we could just narrow into it, will there be an opportunity for a parent to review a test when he is put on notice that his child is going to be subjected to a test?

Dr. IANNI. This would have to be a determination made in each individual case and I frankly wouldn't want to say that in every case we would insist on the test itself being shown to the individual parent.

Mr. GALLAGHER. Will the scope of the test be disclosed to a parent?

Dr. IANNI. Yes. The area of the testing, why it is necessary for the research, how it relates to the research objectives will be made available, but I simply don't see where in each case it would be necessary to make available the test itself.

Mr. GALLAGHER. Would a parent of a child, if upon making inquiry as to what the contents of the test were, then be in a position to have his child excused?

Dr. IANNI. Yes. He always has this.

Mr. GALLAGHER. Without the child being looked upon as an odd ball?

Dr. IANNI. I don't think so, because where testing is used in our research situations, the confidentiality of who is responding is always respected and consequently the child really wouldn't be ostracized as a result of this because the list of students to be used is not known to the general student body.

Mr. GALLAGHER. I am sure that by and large what you have just mentioned here are adequate safeguards and new procedures will implement these safeguards, but the subcommittee has a somewhat nebulous opinion when you get into specific areas of testing.

Just looking through the book at some of the tests here, there was one given on the personality attributes associated with various mechanisms of masculine identification. This was given to kindergarten boys.

Now the whole area of this type of thing would seem to me there ought to be full disclosure to a parent that this child of 5 years old is to be tested on his masculinity. You can get into many problems on this type of thing. It is this area that concerns me. There are others in the booklet here. But it would seem to me that a child could be made subject to witticisms throughout the school if the clinical relationship and nature of the testing weren't adequately safeguarded. Do you feel that in this type of thing, and most of these others, that privacies will now be protected?

Dr. IANNI. Yes, sir.

Mr. GALLAGHER. That a parent will have a right to know——

Dr. IANNI. I think the key to the issue is the voluntary nature of the test. This is the principal safeguard.

Mr. GALLAGHER. Voluntary nature of the test plus the parental request?

Dr. IANNI. That's right.

Mr. GALLAGHER. Parental consent, informed, as you said before. Informed parental consent.

Dr. IANNI. Yes.

Mr. HORTON. How can a child in kindergarten give his consent?

Dr. IANNI. This is the consent of his parents, not the child.

Mr. HORTON. In other words, the voluntariness of the test is gaged by the parent and not by the child involved.

Dr. IANNI. Yes.

Mr. HORTON. Is this true in grammar and high school levels?

Dr. IANNI. Yes, sir. Our understanding was everything below the college level.

Mr. GALLAGHER. Your new statement of policy, it is our understanding that parental consent, informed parental consent will now be part of the testing—

Dr. IANNI. Where questions of intrusion or privacies are involved.

Mr. GALLAGHER. In all areas below college level?

Dr. IANNI. Yes.

Mr. ROSENTHAL. Doctor, after you have prepared this memorandum that you are going to deliver to the parents prior to obtaining their consent, could you send us over copies of it, as many as you prepare, so we can include it in our files?

Dr. IANNI. I would be happy to.

Mr. CORNISH. Doctor, in giving the parents information about the testing when consent is sought, I assume that parents will be told in the first instance that their children are going to be asked questions about their family relationships, their religious views, their sex experiences. In other words it will be spelled out in terms so that parents will be able to have a very clear idea of what the questions are going to be. They are not going to be just told it is a personality test.

Dr. IANNI. These will not be global generalizations.

Mr. ROSENTHAL. Do you think the parents will help the children prepare for the test?

Dr. IANNI. Perhaps by reading Playboy, sir. I don't know.

Mr. ROSENTHAL. That is one-upmanship.

Mr. GALLAGHER. Would that be included in Project 1770 that I mentioned, a determination of the masculinity of kindergarten boys?

Dr. IANNI. Yes, sir; I think so.

Mr. CARLSON. No questions.

Mr. GALLAGHER. The U.S. Public Health Service and the National Science Foundation also have supported projects involving such tests. I am hoping that these two agencies will adopt policies and guidelines similar to yours.

Frankly I don't think it should be necessary for Congress to write protection of privacies into law regarding these matters. Federal agencies should be the first ones to take a strong stand in favor of individual rights. The Office of Education has done this, and the committee wishes to commend the Office for its progressive thinking and its interest in advancing the cause of scientific knowledge without jeopardizing the rights of the individual. I hope the Public Health Service and National Science Foundation will follow your lead.

We thank you very much for your statement of policy and for your appearance here this morning.

Mr. GALLAGHER. The Chair would like to call Dr. Arthur Brayfield.

Dr. Brayfield, as the executive officer of the American Psychological Association, we welcome you this morning.

Whereupon, Dr. Arthur H. Brayfield was called as a witness and, having been first duly sworn, testified as follows:

Mr. GALLAGHER. Doctor, you may proceed. Do you have a prepared statement?

Dr. BRAYFIELD. I have a prepared statement, sir.

Mr. GALLAGHER. Fine, please proceed.

**TESTIMONY OF DR. ARTHUR H. BRAYFIELD, EXECUTIVE OFFICER,
AMERICAN PSYCHOLOGICAL ASSOCIATION**

Dr. BRAYFIELD. My name is Arthur H. Brayfield, Mr. Chairman. I am the executive officer of the American Psychological Association. I appreciate the invitation to appear before this committee and present this statement on behalf of the association.

Congressman Gallagher, I should like to express my appreciation to you personally for your kind cooperation with the invitation I extended you some time back to prepare a statement of your position, ideas, et cetera, with respect to this question for publication in our association journal, the *American Psychologist*, which will, in its November issue in some 186 pages, devote itself to the question of personality testing and public policy and I certainly appreciate your help and cooperation.¹

The association, founded in 1892 and incorporated in the District of Columbia in 1925, is the major psychological organization in the United States. With a membership of more than 25,000 members, it includes most of the qualified psychologists in the country. The objectives of the association are to advance psychology as a science and as a means of promoting human welfare.

The American Psychological Association is hopeful that this hearing and others will assist in the further development and use of effective and responsible personnel procedures by Government agencies. Our members share your concern that such procedures shall give full recognition to the constitutional and human rights of present and prospective Government employees. We are grateful for the opportunity to appear here today, and we would like to offer the services of our organization in any way in which they would be helpful to you.

Most of our individual members are familiar with tests, and psychologists are quite concerned that the right tests be used for the right purposes in the right way.

Indeed, the preamble to our ethical standards, which binds all of our members, clearly commits us to this interest and concern. I quote:

The psychologist believes in the dignity and worth of the individual human being. He is committed to increasing man's understanding of himself and others. While pursuing this endeavor, he protects the welfare of any person who may seek his service or of any subject, human or animal, that may be the object of his study. He does not use his professional position or relationships, nor does he knowingly permit his own services to be used by others, for purposes inconsistent with these values.

There can be no question that any injustice which vitally affects the career of even one government employee is a serious matter. Most of psychology is directly related to the essential uniqueness of each human individual and our ethical code is built around the inviolable rights of a human being to be treated with full recognition of his dignity and worth in psychological research and psychological services. In many respects these are old issues to us. We have long endeavored to set forth the strictest standards preserving human rights, and no psychologist needs to be told that these standards apply to every human being with whom he comes in contact professionally, and must be observed with particular care in the case of those who are emotionally disturbed, those who are in trouble, those who, in a career situa-

¹ See article entitled "Why House Hearings on Invasion of Privacy," on p. 307 of appendix.

tion, are being given a special examination, and the young and immature.

We welcome the interest of the public and of congressional committees in these matters, and while we feel that some of the current criticism is misinformed, we take it all in all as an evidence that the American citizen still treasures his right to be left alone in certain matters which should be his to decide.

In our view, one of the major and crucial tests of the effective functioning of a democracy is the extent to which its citizens are able to use their skills, talents, and abilities in order to realize their own potentialities and to contribute to the common welfare.

A second test is the extent to which a democracy's social institutions, social structures, and specific organizational units function effectively to achieve their missions and goals and, in the process, enable individuals to realize their potentialities and contribute to the common welfare.

In this view, a democratic society is concerned with the wise and humane use of its human resources.

It is in this context and perspective that psychological assessment procedures must be viewed and evaluated. The furtherance of these objectives of a democratic society has motivated much of the work on test development and is central to the professional use of assessment procedures. It is our hope that these tests have contributed to the wise use of human resources for productive purposes.

Psychological tests have made an enormous positive contribution toward securing human rights for all human beings, and they have been of great value to all kinds of minority groups. When a member of a minority group takes the same test as everyone else he may be judged on a much better basis than if he were to be interviewed personally by someone who might be biased.

Most persons realize that competitive examinations of all kinds, including psychological tests, have helped minorities, but it is sometimes overlooked that they have helped women and old people and sometimes young people and sometimes handicapped people who are able to demonstrate through standardized tests that they can do a job. There is simply no question that, although these tests can be abused by persons ignorant of their proper role, tests have been used to help the realization of human rights of millions of persons, and, above all, they have helped our country to utilize more fully its most priceless resource, the human talents of all its citizens.

It may be useful at this point to digress for a moment and briefly record a few facts about the history of the development and use of psychological tests.

In their origin, they were developed as instruments for the scientific study of individual differences. Curiously, the first experiments upon individual differences in a psychological function were made by an astronomer, Bessel, who had noted the earlier dismissal of an astronomer's assistant for errors in observation. Beginning around 1820, Bessel experimented upon himself and colleagues and found a wide variation in speed of response. This was the beginning of what is now a vast literature of the measurable differences among human beings.

This line of investigation was picked up by psychologists and furnished the foundation for subsequent work in mental measurement.

The study of psychological variability gained recognition as a field for scientific investigation with the publication in England in 1883 of Francis Galton's classic "Inquires Into Human Faculty and Its Development." The impetus for work in differential psychology in the United States was furnished by a paper titled "Mental Tests and Measurements," the first use of this terminology, by James McKeen Cattell in 1890. By 1910 Whipple had published a two-volume "Manual of Physical and Mental Tests."

These are the scientific origins. Interest was soon aroused in the practical uses of these measurement procedures which had been developed for strictly scientific purposes. In 1904 the French Minister of Public Instruction sought to find ways of insuring the benefits of education for educationally retarded children. This humanitarian concern led Alfred Binet in 1905 to publish his now famous individual test of intelligence. By 1910 Munsterberg, at Harvard, was able to write a book on industrial psychology which summarized the application to that date of psychological testing in business and industry. And then came World War I and the wide-scale use of psychological testing in the U.S. Army. It was at this time, incidentally, that personality testing received increased attention.

However, it is not my purpose to trace in detail this history. I do want to make these points:

1. Psychological testing, historically and presently, is closely related to questions of scientific interest and therefore ordinarily has had to meet rigorous requirements as a tool for research.
2. The utility of psychological testing in practical matters affecting human welfare was early recognized.
3. Psychological testing has a reasonably long history during which many technical, scientific, practical, and ethical problems and issues have been identified, recognized, and in some measure resolved.

Now I should like to turn again to the major questions of this hearing.

It is at this point that the unique contribution of the psychologist becomes apparent, for it is he who has insisted so vigorously that all personnel procedures should be able to demonstrate their effectiveness. That is, the psychologist requires evidence that the use of any given personnel procedure be demonstrated to have a relationship to the outcome of the employment process—to predict subsequent job performance.

A central question is: "What does a test score mean?" The rationale of the answer is straightforward although the procedures for answering the question in any given instance may be complicated. In general, the relationship which has been observed to exist between one's relative standing on a test—that is, scores—and some human performance—that is, transcribing shorthand notes—or some status—that is, success or failure in law school—or some mode of behaving—that is, hypersensitive, suspicious—tells what the test score means. That is, responses in the test situation are shown to be related to responses or behavior outside the test situation.

Let me illustrate by describing a rigorous "test of the tests" which was conducted in the Air Force during 1943-45.

A sample of more than 1,000 men was selected by representative AAF examining boards throughout the country without reference to their test scores—the test battery included tests of coordination and

speed of decision, intellectual aptitudes and abilities, perception and visualization, and temperament and motivation; that is, personality, which were combined into a single score. All men who met the physical standards of the medical examination were accepted and sent into pilot training; their test records were sent to headquarters and were not made available to the training schools. These are the results:

Not 1 of the 125 men with the lowest combined aptitude score was successful in flying training.

Only 4 percent of the 391 men with low aptitude scores were able to complete the full course of flying training.

Of the 468 men with medium aptitude scores, 30 percent were graduated.

Of the 158 high aptitude men, 65 percent were graduated.

It is clear from these data, which constitute a rigorous "test of the tests," that important improvements in training efficiency resulted from the use of these objective selection procedures. The meaning of the scores on the test battery is reasonably clear. They were related to success in training. Incidentally, other studies demonstrated their relationship to bombing accuracy and to the accident rates.

This research investigation also illustrates that tests are not perfect but that they may lead to a marked improvement in personnel decisions over decisions made on the basis of conventional personnel procedures. In this instance, 25 percent of the entire group, selected by conventional methods, were graduated. If only men with high aptitude scores had been selected, 65 percent would have graduated. This represents a tremendous savings in time, materials, and money.

Obviously, I could also illustrate instances in which tests have not been effective. It is the responsibility of the test user to know from research what tests are effective for what purposes under what conditions.

I should like now to present our recommendations and views on the need for legislative action on these matters.

In our view, legislation may define the roles and functions of psychologists in the Federal Government; it should not dictate the methods and procedures for carrying out these roles and functions. These methods and procedures are more properly reserved to professional judgments. Such a canon of professional autonomy does not, of course, preclude the use of commonsense by the individuals concerned. Nor does it suggest an indifference to the important question of individual rights with which this committee is quite properly concerned—as are the members of our association.

It does seem to us, however, that there are several ways in which the Government could strengthen its assessment procedures and safeguard the rights of individuals subject to them.

The underlying theme of our recommendations or suggestions is that professional competence should systematically be put at the service of the Government to develop guidelines for psychological assessment practices, to carry out such procedures, and to review such programs and procedures.

Specifically, the Government might act to:

1. Insure that all nonresearch test use and psychological assessment such as is not under the direct cognizance of the Civil Service Commission should be under the direction of highly qualified staff psychologists directly responsible to operating or line administrators.

2. Maintain a review or appeal procedure for personnel decisions in which psychological test data and psychological assessment have had an important part, perhaps with the possible use of an outside panel composed in part of psychologists.

3. Establish an interagency committee on assessment composed of representative agency psychologists. This committee would share experiences and formulate guidelines for sound practices.

4. Establish an advisory panel to such an interagency committee, composed of recognized psychologists from outside Government to periodically review agency assessment procedures and programs and to assist the committee in its activities.

5. Establish a task force under contract with the National Academy of Sciences—National Research Council, perhaps in conjunction with the Division of Behavioral Sciences of the NRC, to survey and evaluate current agency assessment procedures and practices and to make recommendations.

A task force, under the direction of an eminent psychologist and public figure such as, say, the present president of the Carnegie Corp., the vice president of the Rockefeller Institute, the executive officer of the American Association for the Advancement of Science, or a recent National Medal of Science recipient, would bring superb scientific and professional resources to the task.

I might just interject at the time I prepared this I mentioned the president of the Carnegie Corp. I was not aware he was about to be appointed to a Cabinet officership in the Government and is thus unavailable. He is a psychologist.

Mr. GALLAGHER. How do you view this appointment? You point out he is a psychologist. Do you think he will agree with us or psychologists?

Dr. BRAYFIELD. I'm inclined to say that is his problem.

Mr. GALLAGHER. But you do say it is a problem?

Dr. BRAYFIELD. I think his appointment was a most distinguished one on the part of the Government in that he brings to the position great competence and great integrity and I'm sure that because of his background he will be particularly sensitive to the issues to which this committee addresses itself.

Mr. GALLAGHER. I'm very happy to hear that.

Dr. BRAYFIELD. Such a task force would start with the advantage of having available to it the considerable preliminary work of this subcommittee and its staff on these matters. One would hope that the final recommendations of this committee might be deferred until the findings of such a task force were reported to it.

6. Provide for continuing empirical research on the effectiveness of the personnel procedures used in those agencies where psychological assessment is an integral part of the procedures.

It has now been almost 4 months since this subcommittee held its first hearings on this topic. And meanwhile, Senator Sam Ervin's Subcommittee on Constitutional Rights has held thoroughly prepared hearings on the same subject. Perhaps you would be interested in an appraisal of these recent events.

First, I believe that a useful purpose has been served by reminding all of us—Government officials, professionals, and the public generally—that we must subject our personnel procedures to continuing review—and I have just suggested several arrangements for effectively doing this.

Second, the misconception that there is a wholesale use and abuse of personality testing in Government has been shown to be false. It is simply not true that these personality tests have been widely used throughout the Government as a regular condition for employment. They have been used in the Peace Corps where the Congress expressly asked the Peace Corps to be sure that the persons sent abroad were emotionally suitable. Mr. Shriver and others have testified that the selection procedures used by the Peace Corps, which were mainly devised by psychologists, have been unusually successful.

These tests are very rightly used by the Department of Defense at places like atomic bomb installations where you need to know that the men near the master controls are of sound personality and character, and will not panic under stress.

A few sensational statements have been made which have implied that the U.S. Government has been embarked on an enormous program of asking people applying for all kinds of jobs, all kinds of questions and then letting the answers to these questions be passed around loosely in Government offices. In the course of these investigations our top officials have talked to the top officials in the offices mentioned and it is crystal clear that there has not been any such widespread use of personality tests, and of course there consequently has not been any widespread misuse of these tests. I repeat, there has been no widespread use and there has been no widespread misuse of personality tests in Government employment situations.

Further, our association and its ethics committees have received no well-documented account of any injustice or gross invasion of privacy; our staff members, including the secretary of our national ethics committee, have gone through the transcript of both the House and Senate committees investigating these matters and we do not find there has been any widespread abuse of psychological tests in the Federal Government. Our ethical code binds every member of the APA and we will not tolerate any person in psychology misusing private information or permitting it to leak to the damage of some person's reputation or career. I urge this committee and its staff to report to our association, in complete confidence if they wish, any case in which they have found a psychologist has been an accessory to mishandling of confidential information. Meanwhile, our investigative machinery is alert to watch for misuse of any psychological tests.

Third, as evidenced by the statement presented on behalf of the U.S. Office of Education, this committee has extended its interest to the use of personality tests in research grants and contracts with investigators outside the Government whose quest for new and useful knowledge is supported in the public and national interest by Federal funds. As I noted earlier, psychological tests originated as instruments for scientific research. Thus we have a very real interest in their present-day use in research.

This is a new development and one which, in my view, gives added significance and urgency to our recommendation for a task force composed of top level professionals and public figures with a comprehensive charge which would include research.

With all due respect to this committee, I must state my personal view that it does not appear to me to be a workable procedure for it, in effect, to negotiate with individual Government agencies, agency by agency, on the technical considerations which underlie the research of

responsible investigators. Research is a highly individualistic matter and I very much doubt that general prescriptions can be written which will do justice to the good intentions of this committee, to the welfare of individuals serving as research subjects, or to the production of new and useful knowledge.

In research, as in personnel procedures, I am sure that our common aim is to achieve a proper balance among a variety of important considerations. To this end, the American Psychological Association offers you its cooperation and its resources.

Thank you for the opportunity to appear here today.

Mr. GALLAGHER. Thank you very much, Doctor.

We were very happy to grant your request to give a statement on behalf of the association that you represent.

Dr. BRAYFIELD. Pardon. For the record, I think that it was not a direct request from us. We have discussed this, but I should not wish to be in a position of requesting an appearance. We are very pleased to be here.

Mr. GALLAGHER. I am not sure whether you requested it or not, but I recall your asking me for the opportunity of making a statement. I was very happy on behalf of the special inquiry to afford you the opportunity.

Dr. BRAYFIELD. We are pleased to be here.

Mr. GALLAGHER. We are on some slippery area if we misunderstood each other. Perhaps that is the greatest misunderstanding of psychological testing.

I would like to say, Doctor, that I don't know what you consider a widespread abuse or would consider a widespread abuse of personality testing.

Dr. BRAYFIELD. Sir, I would consider that in the instance that a single employee of the Federal Government is in some substantial way damaged personally through the use of personality tests, that is a very serious matter and warrants our immediate concern.

Mr. GALLAGHER. That was the concern of this subcommittee. How widespread or what numbers would indicate widespread use would all differ. The fact of the matter was that there was and is a growing use of this type of testing. We have not been opposed whatsoever to the advancement of scientific knowledge on the part by psychological testing. What we have directed our efforts toward was the widespread abuse in our opinion of the personality type of test that has become and that has been growing as a condition precedent to Government employment in recent years, and has been growing unchecked without any proper guidance enunciated by the agencies in the Government.

As a result of this committee's work, we now have a directive by the Civil Service Commission on the use of personality testing. We have never been opposed to the type of testing that one would be required to determine dexterity, or ability to perform a task.

Under psychological testing, where there is a question of mental balance, we ourselves have urged a psychological evaluation would be helpful as long as it remained in the clinical confidentiality of the psychologist and patient, or client, or whatever he may be referred to as, employee. But these tests have become part of the file, they have been part of the following file, the questions may vary.

Your association says that dependent on the scale of an evaluation that one particular answer to one particular question might not be very important, but an individual's response to a particular question that may follow him for the rest of his career is important. There have been people who have lost jobs as a result of a refusal to answer some questions regarding their personal life. Some of these people have now been restored to their positions. I am not sure what part of the record you have read, but the fact of the matter is that if you think, it is serious enough to make these suggestions, which we welcome, by the way, and welcome very much, it was serious enough for Chairman Macy, John Macy, to define what the problem was and to lay down guidelines to correct the problem which this subcommittee is quite satisfied with.

As far as the Peace Corps is concerned, they overnight eliminated 195 questions out of 460, all related to the area that this subcommittee was interested in. So there was a problem, a very serious problem, that you yourself recognize, that the association recognized.

We have never been opposed to psychological testing per se. We have been strongly opposed to the use of personality testing as a way not only to determine a person's attitudes, but to determine how a person might think at some future date to some given situation. We feel that this is wrong to determine whether a person may join a union or intends to join the NAACP. The type of questions, thousands of these questions that have been thrown back and forth in Government circles without any great check being placed upon them—and I am happy that you indicated awareness of this problem and a desire to cooperate to protect the privacy of individuals.

This has been the very purpose of this inquiry, not to impede science, not to slow down scientific research, but rather to accept it, to accelerate it properly so that the beneficiaries of scientific research will at some time be able to benefit from the research rather than be condemned to a status of nonperson at some foreseeable future which seemed to be the path we were on in this particular area of interest.

Mr. Cornish?

Mr. CORNISH. Dr. Brayfield, how do you feel about the question of consent given to taking a personality test which is possibly intrusive? I am talking about the situation outside the clinical situation.

Dr. BRAYFIELD. This is the research situation?

Mr. CORNISH. Yes. I know the association, for example, has given great time and consideration to the question of confidentiality in testing, and I think rightly so. But has the association really directed itself to the issue of consent as well as confidentiality?

Dr. BRAYFIELD. I wish there were a simple response. If there were, the problem would probably not be very significant.

The fact that there is no simple response does indeed indirectly attest to the significance of the question. I think I would sort out my views in the following way: (1) I very much doubt that you can write a general prescription that would cover the issue; (2) and this is a basic question—I think that you have to weigh the relative values as does an investigator in the more generally established and recognized areas of medical research, as to the values to be derived from the research being undertaken; and (3) I think, as has been the primary concern of your committee, that you have to weigh the question of the

rights of the individual who is subject to the inquiry, who cooperates and participates in the research.

In most instances a responsible investigator would either in a general way or in a specific way address himself to the question of consent. Partly you have an age factor, a maturity factor as influencing your decision. As I suggested, you have the question of the significance of the possible discovery of information or new knowledge to be obtained. You are really posing one of the real judgmental tests that any investigator is faced with, and interestingly, although there is no consent involved, you have some highly related question in the use of animals which is always of great concern to research people.

I face the question not only as a professional in the field but I face it as a parent. I have four children and I have raised the question of my children's participation in research and, for myself, I have resolved the question that in many instances of research I am not bothered about the problem of consent. It turns out that I am more bothered in this particular instance with the use of personality tests in school settings by school personnel, and there my children are instructed to be very "cagey" simply because at the present time there are not sufficient numbers of really professional people making use of such materials in the public schools.

Mr. GALLAGHER. If I could interject now at the number of the problem that concerns us, not the competency of psychologists, but the use of psychological and personality testing by those who are unskilled or unknowledgeable or incompetent.

Dr. BRAYFIELD. This is the thing that has disturbed us all. The fact that there has——

Mr. GALLAGHER. A mass use of this type of thing.

Dr. BRAYFIELD. One of the interesting situations a psychologist faces is that he is criticized because he knows too much and does too much and is criticized because he doesn't know enough. I would rather get the criticism of knowing too much and being highly competent—and our problem is we have, unfortunately, access to professional materials on occasion by persons who are not professionally competent to use the materials. It is true in industry as well as schools.

Mr. GALLAGHER. This is the problem.

I would like for the record to include that we have never, at any point along the line, tried to exercise any judgment on the competency or efficiency of psychologists, or criticize the psychologists to any extent. We have been highly critical of the use of personality tests that have been put together by psychologists and allowed to be distributed to incompetent people who make evaluations and judgments.

Dr. BRAYFIELD. This certainly isn't speaking as a psychologist, but what we are dealing with really is a high moral question and I look to see what social institutions have been evolved to deal with the moral questions.

On the one hand you have professionals and their internal controls. On the other hand you have some kind of social control via government. And on the other hand, in one sense, as the ultimate arbiter of the great moral issues of this or any other times you have the law.

We have discussed this whole general area at length with our general counsel, Judge Thurman Arnold and his staff, and we come to a real

appreciation of the problems that the law has had, which is institutionalized human wisdom in many respects, and we come to see the very great problem they have.

I have searched for a definition of invasion of privacy that I could be assured would have a reasonable chance of holding up in court. And you know better than I do, particularly as a lawyer, the very great difficulties of arriving at such a decision and one that would be sustained at the highest levels of the court.

Mr. GALLAGHER. We are not seeking to lay down inflexible guidelines. We do feel that basic values and sections in testing should be made more explicit so that they will be kept at a high level of consciousness in the minds of both the Government officials and researchers. That has been what this subcommittee has attempted to do, to bring to the surface some of the problems that people in Federal Government and other employment have been having with the moral issues that surround the inefficient or incompetent use of personality tests by those not competent to evaluate it. We have never questioned the need or the use or the desirability of psychological relationship at some particular point as long as that relationship would remain a clinical and confidential one.

Mr. ROSENTHAL. Doctor, I think you said in the beginning of your testimony that psychological testing has helped certain minority groups attain positions based on their absolute skills rather than any extraneous factors.

Yet I remember in the MMPI and some other tests that were given, that there seemed to be a number of questions which would clearly indicate the racial or social character or background of the person taking the test which in my judgment would have clearly excluded that person from consideration. I don't remember the questions.

Do you resent the background? With many people living in one apartment or one room, "was your neighborhood shabbier than other neighborhoods," questions of that type. I find an inconsistency between the little experience we had reviewing that test and the testimony you have given here this morning.

Dr. BRAYFIELD. Your problem always takes you back to the use of the materials. We finally discovered poverty in America. Those of us who date back to the early thirties and didn't even have a house window to jump out of, let alone a 40-story office building, kind of feel like it is the old days, and we feel more at home again that there is recognition of such a thing as poverty and there is such a thing as discrimination and deprivation.

One of my concerns, very seriously, is how we can get the kinds of useful knowledge that will make it possible to better design social programs of all kinds, whether they be training or the enhancement of motivation. In my view the biggest problem in working with underprivileged groups of all kinds, be it minority or any other label, is how to instill in them some real feeling of wanting to be a part of our society and to get a little of the "striving" syndrome into it, if you will. It is such a subtle thing that you are led into inquiries.

It now seems reasonably well established that a major part of the problem with respect to Negroes and their motivation—I am thinking of the younger people now—is the lack of a father figure. The lack of a father physically present and the lack of a father psychologically present.

It is well established that the Negro social system at the lower income economic levels is essentially a matriarchy, and you get a different kind of person coming out of that environment if his identification has been with a mother rather than with a father figure.

If you can't ask the right question, how are you going to get the knowledge that enables you to really know the significance of the problem of how one adopts the male role and how one adopts the female role, and how one takes on some of the characteristics that seem particularly appropriate in our society for an underprivileged kid? How can you design the educational programs and training programs and counseling opportunities and the kinds of relationships the kid has in his family? In other words, how can you be useful in the interest of an underprivileged kid if you don't have a real basic understanding of the phenomena, and this, I think, is the point we hang up on when we get into the research side, because it is indeed some of these things that on the surface we find often significant.

The question of family relationships, sexual practice and so forth, and religious values, if you will, are important. There certainly is sufficient evidence that they have a bearing on what this kid is going to be and what society can provide for him in the way of education and training and all the rest.

Mr. ROSENTHAL. Let me be specific. This is a rather lengthy answer to my question.

Dr. BRAYFIELD. I am a former teacher, so cut me off at any time.

Mr. ROSENTHAL. All right. One of the important factors is this seeing which way the person or youngster goes toward his male or his female characteristics. Following that psychological interest on the MMPI was a question "Who do you think is more masculine, Washington or Lincoln"? Now, the subcommittee itself has been wrestling with this for months.

Dr. BRAYFIELD. This is why you were interested in the answer sheet, wasn't it?

Mr. ROSENTHAL. Still we have never really resolved that. It seemed to me that not only was there presumably an answer that Washington was associated more with war and soldiers and that he was more masculine, but that certain groups would tend to favor Lincoln with having no masculine tendencies, and this led me to believe there were many, many errors in this kind of testing and that this compounded with the violation of an individual's constitutional rights permitted me to feel there was great doubt in the practical use of these tests.

Do you agree with me that maybe there is an intermixture of discrimination against groups when you are simply trying to find out this masculine-feminine tendencies?

Dr. BRAYFIELD. You made it more specific.

Mr. GALLAGHER. Sonny Liston would say "Lincoln." He would get a minus on the masculine-feminine scale. Now he would not exactly be considered feminine.

Mr. ROSENTHAL. As far as we know, that is.

Dr. BRAYFIELD. As far as we know, that's right. Well, I know first that discrimination is all-pervasive and we are all discriminated against. Blonds are discriminated against, for example. Obese individuals are discriminated against. You name the characteristic and the individual possessing that is discriminated against by someone.

I think you are asking for a technical consideration because I have to give it to you in terms of a technical consideration. That particular item has been shown to differentiate among a group of persons whom it was reasonably clear were masculine in their makeup and a group whom it was reasonably clear were feminine in their makeup. Now, if there were a single question asked that was relevant to that discrimination, that distinction, then you would be in trouble because indeed I could conceive that a Negro might well take Lincoln as his hero, but if you add in 30 or 40 other items that are not subject to that kind of bias, then you have control for bias and this is one of the technical problems you have always got, that of how to control for bias.

Bias is, in someone's definition, always there, and this is why you have to technically randomize the opportunities for bias to occur in order to get a useful measure that will indeed have some relationship to whatever the characteristic is, or kind of behavior is, that you are trying to get at.

Mr. ROSENTHAL. Let me just ask only one more question because I know I have abused my time privilege. It seems to me when you come down to the basics of the thing, there is a need to balance the scales of justice. On one side is what you presumably indicate is scientific progress in research and movement of groups and so forth. On the other side is the invasion of privacies in its constitutional derivatives. At what point do you balance the scales of justice in favor of science and against the Constitution? Or do you?

Dr. BRAYFIELD. Well, you don't, of course. You work out an accommodation process of some kind that fluctuates back and forth, is what you really do. You almost have to have confidence in the honesty and integrity of individuals, and many of us have sufficient experience in human affairs that our confidence, I must say, is sorely tested from time to time.

Mr. ROSENTHAL. In whose confidence are we talking? The examiner, the person responding to the test questions, the reviewer? Who precisely do you mean?

Dr. BRAYFIELD. Well, I start first with the nine wise men on the Supreme Court, because I have said earlier that is where our fundamental moral issues get spoken to eventually. It may take a hundred years, as it did with the question of discrimination. It took a hundred years for that one to get resolved by the Supreme Court in 1954. And we are going to have to be patient and wait.

I think a lot of people are involved. I think, for example, that a school board in Kansas has a stake in this question and I think that there, locally, there is going to be some resolution of it. I think it will be resolved, responded to in part by professionals. I think it has been responded to by your committee which has served the function which I think is a very, very valuable function to keep all participants on their toes.

I don't think you have the wisdom to resolve the problem, very frankly, because I know psychologists don't have the wisdom to do it, and I am not sure the Supreme Court has.

Mr. GALLAGHER. Is that a measured judgment on who has the ability?

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. CORNISH. Doctor, would it be unfair to say that generally speaking you feel that on the issue of consent that this is a matter which should be left to what we would hope to be the wise judgment of the investigator?

Dr. BRAYFIELD. I think that would be my fundamental response, yes.

Mr. CORNISH. I think this is probably where a basic difference between us comes in, because I think that the members of the subcommittee probably feel that consent of the individual or his parent should be required wherever possible and that is where, actually, we have the major difference of opinion.

Dr. BRAYFIELD. I would probably behave in the way in which you advocate, but I would want just a few degrees of freedom where in a particular instance I might feel that a lot of other factors overweighed the consent requirement. One of the things that impresses me in Government agencies on the research side is the extensive review procedures that have been worked out. The projects I have seen helped by having review procedures. But those committees work this way. Those committees themselves feel restricted if there is a highly specific condition that is stated; it comes down to a best judgment sort of thing.

Mr. GALLAGHER. One of the things that comes to my attention in these research projects is the revolving chair factor of people in Government this year giving grants to people out of Government and people on the other end being in Government next year giving grants to people who are then out of Government, a Joe and Charley type of thing, that perhaps there is an inbred confidence among the grantors and the grantees that professional confidences will be respected and on that ground alone, having reviewed some of the correspondence in grantsmanship, I think it is necessary that some guidelines be laid down.

We are not trying to lay down inflexible guidelines, but some guidelines should be directed to this program.

Mr. CORNISH. I know the American Psychological Association is a private organization, but you do receive some financial support from the Federal Government in the form of grants, do you not?

Dr. BRAYFIELD. Yes.

Mr. CORNISH. Do you have any idea what that amounts to in a total, say, for the current year?

Dr. BRAYFIELD. Yes. We have an NSF grant which is in support of a scientific information exchange project. People all over the country are in one sense submerged in scientific information, and we have attempted to see what are the best ways of getting scientific information communicated where it would do the most good and where it can really be brought to bear on a particular investigator or particular practitioner's needs.

This has turned out to be an extremely valuable project in opening up some new channels on the problem. This runs—probably about \$100,000 from NSF this year.

Mr. CORNISH. Perhaps in the interest of time—

Dr. BRAYFIELD. Total figure this year runs about \$250,000 of Federal grants.

Mr. CORNISH. I wonder, could you provide for the record a list of the grants which you have received from the Public Health Service

and the National Science Foundation and other Federal agencies, say, over the past 5 years?

Dr. BRAYFIELD. I would be pleased to file my entire set of budgets for the last 5 years so that you can get some view of the relative proportion. In 1966, our total gross financial activity will be in the neighborhood of about \$2½ million of which, as I indicated, about \$250,000 will be Federal grant funds.

There is one thing I want to make clear for the record, because I am aware that at least one scientific and professional society in this city didn't wisely husband its resources and as a result was largely dependent on Federal grants. We use grants for the multiplier effect to make our own dollars go further and more usefully.

(The information referred to follows:)

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, D.C., November 12, 1965.

Mr. NORMAN CORNISH,
Staff Director and Chief Investigator,
Subcommittee on Government Operations,
Rayburn Building,
Washington, D.C.

DEAR MR. CORNISH: Attached is the breakdown of figures on Federal grants and contracts which the American Psychological Association has received over the past 5 years, plus the figures for 1965 covering to September 30, as requested by your committee during my testimony. This is a followup to my previous letter on expenditures in response to your telephoned inquiry (via Mr. Romney) for a report on total grants as distinguished from expenditures.

During the 5-year period from 1960 to 1964 the American Psychological Association was awarded grants and contracts from Federal agencies amounting to \$1,752,835 of which \$90,000 was transferred to the University of Maryland. Federal funds expended during that period amounted to \$1,314,014 of which \$44,452 was returned to the U.S. Public Health Service. It should be noted that the difference in awards and expenditures for any given period is a function of the date when an award is made. Portions of it may carry over into another time period. During this same period the American Psychological Association funded \$5,518,600 expenses from its own funds. In addition, APA expended \$98,986 of non-Federal grant funds and it invested \$960,809 of its own funds in the development of a new headquarters building in Washington.

In summary, during this 5-year period, 1960-64 inclusive, APA expended \$7,847,957 of which \$1,269,562, or 16 percent were Federal grant or contract funds. In 1966 APA currently has budgeted expenses of \$2,239,200 of its own funds and estimates that it will spend about \$225,000 in Federal grants and contracts, which represents 9 percent of the total expenditure.

Funds received from grants have been expended on special projects.

Attached is a detailed sheet of figures giving the names of projects, the amounts received from grants and grant expenditures year by year.

Sincerely yours,

ARTHUR H. BRAYFIELD,
Executive Officer.

American Psychological Association, annual grant and contract awards and expenditures, Federal Government agencies, period Jan. 1, 1960, to Sept. 30, 1965

Name of grant	1960	1961	1962	1963	1964	Jan. 1 to Sept. 30, 1965	Total
I. AWARDS							
U.S. Public Health Service:							
Training program in clinical psychology	\$26,000	\$34,055	\$34,055	\$34,055	\$34,055	\$34,055	\$196,275
Research in psychological aspects of rehabilitation	15,532	-----	6,500	-----	-----	-----	22,032
Travel to International Congress of Psychology, Bonn, Germany	5,000	-----	-----	-----	-----	-----	5,000
2d Conference on Research in Psychotherapy	14,547	-----	-----	-----	-----	-----	14,547
Support XVII International Congress of Psychology, Washington, D.C.	-----	-----	50,500	-----	-----	-----	50,500
Special international activities in psychology	-----	-----	42,600	19,300	-----	-----	61,900
Research and demonstration in pupil personnel service ¹	-----	-----	190,000	-----	-----	-----	90,000
Conference on Professional Preparation of Clinical Psychologists	-----	-----	-----	64,770	-----	21,713	86,483
Travel to Congress of Applied Psychology, Yugoslavia	-----	-----	-----	-----	14,115	-----	14,115
Total, U.S. Public Health Service	61,079	34,055	223,655	118,125	48,170	55,768	540,852
National Science Foundation:							
National Scientific Register	17,428	21,745	19,273	28,520	20,760	24,000	131,726
Visiting scientists to colleges program	25,030	23,130	23,130	23,875	23,875	20,955	139,995
Publication of "A Career in Psychology"	-----	4,600	-----	6,900	-----	-----	11,500
Visiting foreign scientists program	-----	56,160	-----	17,770	8,885	-----	82,815
Production of film series "Focus on Behavior"	-----	148,240	187,770	29,400	-----	-----	365,410
Coordinated study of information exchange in psychology	-----	167,760	69,900	-----	302,600	-----	540,260
Travel to VIII Inter-American Congress in Psychology, Mar del Plata, Argentina	-----	-----	-----	5,000	-----	-----	5,000
Support XVII International Congress in Psychology, Washington, D.C.	-----	-----	36,000	-----	-----	-----	36,000
Support of Publication of Abstracts	-----	-----	-----	-----	-----	68,500	68,500
Total, National Science Foundation	42,458	421,635	336,073	111,465	356,120	113,455	1,381,206
Total, Federal Government grants	103,537	455,690	559,728	229,590	404,290	169,223	1,922,058
II. EXPENDITURES							
See enclosure for details	56,888	209,488	144,946	1350,183	252,509	231,005	1,545,019

¹ This grant was transferred to the University of Maryland by U.S. Public Health Service. APA disbursed \$548 of the grant fund and returned the balance of \$44,452 of the \$45,000 of grant funds received prior to the transfer.

Mr. GALLAGHER. Doctor, in evaluation of these tests, does your association farm them out for evaluation?

Dr. BRAYFIELD. No. What you have available to you to evaluate any particular test—what you have is your own knowledge of the research literature that deals with that test. About every 3 years there is published, under private but nonprofit auspices, a mental measurements yearbook. It has about 1,200 pages each year in which at least 2 highly competent people will evaluate a given test.

Mr. GALLAGHER. Are they paid for this?

Dr. BRAYFIELD. Yes, you get a copy of the mental measurements yearbook free. You are paid at the rate of about 4 cents an hour, is what it turns out. Those persons who participate as reviewers.

Mr. GALLAGHER. Well, if a series of tests were done at Bayonne High School, and then they were sent into your association headquarters—

Dr. BRAYFIELD. They don't come in to us.

Mr. GALLAGHER. Who would they come to?

Dr. BRAYFIELD. They don't go to anyone.

Mr. GALLAGHER. Who would make the evaluation? These tests are sealed, aren't they?

Dr. BRAYFIELD. Yes.

Mr. GALLAGHER. And someone is paid to evaluate them?

Dr. BRAYFIELD. Well, let me tell you—I won't take but a second.

Mr. GALLAGHER. Good.

Dr. BRAYFIELD. A few years ago there was a particular occupational interest inventory which I summarized by saying, one, I was using it extensively as an example in my class of utter foolishness; and, secondly, I ended that the only appropriate evaluation was caveat emptor—so you get that kind of evaluation from the mental measurements yearbook. It is a hardhitting, objective-type evaluation.

There is no single governmental agency or profit or nonprofit organization that reviews all tests that come out other than this one mental measurements yearbook, the "Buros Mental Measurements Yearbook". It was carried on the shoulders of one dedicated individual for about the last 18 years, and he got the cooperation of about 600 people at about 3 cents an hour.

I would like to say—

Mr. GALLAGHER. We have a copy over here.

Dr. BRAYFIELD. In testimony before Senator Ervin's committee, one of my colleagues strongly urged that the National Bureau of Standards establish a test review unit. I have no objection to that. I first made the suggestion in 1939.

Mr. GALLAGHER. Thank you very much, Doctor.

Mr. HORTON. Your association, of course, does not in the first instance prepare these so-called personality tests, do they?

Dr. BRAYFIELD. No.

Mr. HORTON. Do you have any mechanism in your association for checking the content of such tests? Are they submitted to your organization on any sort of a basis, voluntary or otherwise?

Dr. BRAYFIELD. No. Our role is to provide standards, as in this new document which first came out in 1954, and this is a revised one that is just now at the printer's, which gives the best judgment of the technical people in the field as to what standards tests should meet.

Our internal procedure for enforcing this is the same procedure that any professional, law, medicine, what have you, has, and that is through our ethics committee operation where a person—

Mr. HORTON. What do your standards say with regard to these so-called personality tests that involve personal and intimate knowledge, especially about sex, religion, and that sort of thing?

Dr. BRAYFIELD. It would show up in our ethics code which says the psychologist who practices his profession shows sensible regard for the social codes and moral expectations for the community in which he works. A psychologist must recognize that his running counter to accepted moral and legal standards may involve his clients, students, or colleagues in damaging personal conflicts and

impugn or damage his own name as well as the reputation of his profession.

Mr. HORTON. You don't get involved in the——

Dr. BRAYFIELD. We don't evaluate the test materials themselves as to whether they are "good tests" or "bad tests."

Mr. HORTON. Do you say anything in your standards about questions regarding sex or religion?

Dr. BRAYFIELD. No, sir.

Mr. HORTON. You just have a general statement?

Dr. BRAYFIELD. That's correct.

Mr. HORTON. Do you say anything in your standards, or do you take any position, with regard to these tests being given by others than those qualified in the field of psychiatry or psychology?

Dr. BRAYFIELD. Yes. We take a strong position on that as to who is technically competent and what qualifications they must have.

Mr. HORTON. What is that position?

Dr. BRAYFIELD. There are four classifications and the completely unstructured personality test used for clinical assessment would require a Ph. D. and so many years of supervised training experience.

The next category would take a structured personality test such as the MMPI and require the Ph. D. and so many years of supervised experience.

Then you go down to the fourth category which would take account of an achievement test, for example, where a classroom teacher with a course in educational measurement would be felt to be qualified to administer a classroom achievement test.

Mr. HORTON. That doesn't have anything to do with personality testing.

Dr. BRAYFIELD. No.

Mr. HORTON. In this personality testing, do you take any position with regard to who should administer that?

Dr. BRAYFIELD. It is not that concrete. Let me give you what it would operationally work out as. A person with a master's degree in psychology and with a year of supervised experience would be thought competent to administer a personality test in an industrial situation where it had been demonstrated by research to have some relationship to subsequent performance on the job. What you really run into——

Mr. HORTON. It would still have to have some psychological training, though.

Dr. BRAYFIELD. Yes, correct. It is when the tests get out and get in the hands of someone else that we have a problem.

Mr. GALLAGHER. This is our problem. The Government, in the use of these tests, has not met the high standards that you yourself have set down by your association. We have felt that these tests, the answers to these tests in the hands of incompetent people are about as safe as a loaded gun in the hands of a child. This has been our feeling.

Dr. BRAYFIELD. I think your problem is a little more specific. The Civil Service Commission has a highly competent staff of psychologists who know this field backward and forward, but not all agencies——there is an excepted service and classification, and not all agencies need to clear through the Civil Service Commission. This is why I felt that we should make the recommendation that there should be

an interagency council of psychologists and that that council should have an outside advisory group.

Mr. HORTON. You would be even concerned within a governmental department having in-house groups, so to speak, pass on these personality tests who didn't have any training or background, wouldn't you?

Dr. BRAYFIELD. Yes. I mentioned, for example, there are four classifications that would apply to how complex a personality assessment procedure you can use. I personally would be guilty of unethical conduct if I attempted to operate at level 4. I am not a clinician and that is the level that is really called for. I can operate at level 3 as an industrial personnel psychologist. So that you have very clearly understood that you restrict your practice in terms of what you are competent to do.

I won't say that the procedure operates perfectly, because that would be a stupid statement. Go to law or medicine or any profession, it is clear that you have problems.

Mr. HORTON. Is it your experience in your association that these tests are submitted to the association for some type of review or examination?

Dr. BRAYFIELD. No; the closest thing to it may be that we publish 13 scientific journals, and many critical articles on tests. You will find research reports that give you important information about a specific test, but we have no central bureau of standards for tests—I think the notion you are essentially presenting is a clearinghouse, a central place for review and evaluation, and we simply don't have it.

Mr. HORTON. You are concerned primarily about the commercialization in this field. As I understand it, there are a number of corporations that are selling these tests and that sort of thing. Is your association concerned about this?

Dr. BRAYFIELD. Very much. The leverage you have is your ethical control. If you find a publishing house, and there may be one or two instances perhaps, where they don't have Ph. D. psychologists on the staff, I would strongly suspect that it is a fast-buck concern.

Mr. HORTON. Do you have any recommendations with regard to whether or not the Congress should become interested in this aspect of it? Do you anticipate or do you expect, or do you feel that this has gotten to such a point that there is danger to the welfare of the people in this country, with regard to this type of testing?

Dr. BRAYFIELD. I won't make that strong a statement.

Mr. HORTON. How would you characterize it?

Dr. BRAYFIELD. I would not be indisposed to seeing a task force, as I have suggested, of highly competent professionals and distinguished public figures, to look at the field of testing and look at that particular question as to whether or not there should be—I can see a possible role for the National Bureau of Standards in the area just as there is a drug unit that reviews materials.

Mr. HORTON. At the present time there is no bureau of standards in this field?

Dr. BRAYFIELD. That is correct.

Mr. HORTON. And it is kind of grown up like Topsy, and it is your feeling, or your association's feeling, that there should be some type of standard or presumed line for these testings?

Dr. BRAYFIELD. Speaking not in my official capacity, but I can tell you a personal rule of thumb I use with respect to a test publishing

house. If the test publishing house employs outside salesmen, I am cautious about it.

Mr. HORTON. Some of them do this?

Dr. BRAYFIELD. Yes, sir.

Mr. HORTON. Is this widespread or unique?

Dr. BRAYFIELD. One house covers the entire country, and another house has probably a dozen people out on the road.

Mr. HORTON. Why does that concern you?

Dr. BRAYFIELD. It concerns me because these people are not necessarily technically competent to advise and consult with respect to the professional use of personality tests. We may find ex-school superintendents, ex-guidance counselors, what have you, in those capacities?

As I say, I am not speaking in an official capacity.

Mr. GALLAGHER. We share a coincidence of concern in this particular area. This is one of the things that has come to the attention of this subcommittee.

Thank you very much, Doctor.

Mr. ROMNEY. I have two questions. I am hopeful perhaps we can cover them in a very brief time.

Would you tell me please, Dr. Brayfield, what activities you include in the term "psychological assessment?" I refer to the term as you have used it on the page containing your recommendations.

Dr. BRAYFIELD. Yes; psychological assessment I would include as a level that operates under the following conditions: Where your objective is to identify individuals suitable to perform in a given situation where an analysis of the job in its setting specifies the nature of the performance and behavior required by the job—but where you don't really know all the details of the operating situation and where you have no research evidence of the use of a personality inventory, or any other kind of assessment materials that it is related to job success. My best illustration would be the selection of the astronauts before they ever took off.

This was a real "iffy" thing and it required a massing of all kinds of information in which personality inventories were just one small part. All kinds of performance tests, stress situations, physical examinations.

By assessment I mean a global, overall approach to human beings.

Mr. ROMNEY. Do you include clinical situations within this sphere?

Dr. BRAYFIELD. Yes.

Mr. ROMNEY. Doctor, you have made reference to the Fifth Mental Measurements Yearbook, and you described it as hard hitting and objective.

I think it would be useful to put into the record some excerpts from this with respect to certain tests. I have picked these out as tests which happen to have come to our attention as being well-known tests, and I think the fact that these opinions of the reviewers are so widely divergent poses a very difficult problem for all persons concerned with the use of tests.

The first that I would like to refer to is the California Psychological Inventory. One reviewer, a well-known educator, describes in conclusion this test in the following language:

It is conceivable that there may be a role for a personality inventory developed by the procedures and following the rationale of the CPI. However, this re-

viewer feels that the role will not be that of providing a clear, efficient and simple personality description.

By contrast, another reviewer speaking to the same test has a different outlook. He says:

By both objective and subjective evaluation the CPI appears to be a major achievement. It will surely receive wide use for research and for practical applications.

However, the reputation of the second reviewer is not so well known as the reputation of the first one. I submit this creates a problem unless someone——

Dr. BRAYFIELD. I interpreted they were both favorably disposed toward the CPI.

Mr. ROMNEY. No.

Dr. BRAYFIELD. The second person comes right out and says it. That is the difference

Mr. GALLAGHER. The other fellow doesn't come right out and say it?

Mr. ROMNEY. These are contrasting views.

Dr. BRAYFIELD. I think they are contrasting styles of writing more than views, but you will certainly get divergent opinions. There is no question. Just like the 200-to-200 vote in the House a few days ago.

Mr. ROMNEY. The first reviewer said:

It is conceivable there may be a role for personality inventory developed by the procedures in following the rationale on the CPI. However, this reviewer feels that the role will not be that of providing a clear, efficient, and simple personality description.

I don't read that as being favorable.

Dr. BRAYFIELD. It is a theoretical position and one person says the rationale is not a useful one from the standpoint of psychological theory. He doesn't say the test is no good. He is talking about the theoretical orientation of the man who developed the CPI. That is what he is doing.

Mr. GALLAGHER. What he is doing is really saying that he sees no real use for it, to boil it down. There may be a use but he hasn't found it.

Mr. ROMNEY. Another one quite commonly referred to is the Kuder preference record. A reviewer sums this one up in the following language:

In summary, because of the weaknesses discussed above, the reviewer is of the opinion that the Kuder preference record-personal is of only limited value. Counselors using it should guard carefully against overinterpretation.

We have the well-known Minnesota Multiphasic Personality Inventory——

Dr. BRAYFIELD. Where was the second example by contrast?

Mr. ROMNEY. I didn't find one. Only one review is given.

The Minnesota Multiphasic is summed up by the first reviewer in the following language:

Another relevant question in regard to clinical use of the MMPI is whether the game is worth the candle in terms of time consumed in scoring and interpreting the test. Aside from literally scores of hours which a conscientious MMPI user must now take to acquaint himself with the theory and practice of the test, he must also spend from 2 to 3 hours checking, profiling, analyzing, and comparing each protocol in relation to the material in the manual, the atlas, basic readings, and various other MMPI researches. It is to be wondered whether the clinical

psychologist who cannot, in equal or less time, get more pertinent, incisive, and depth-centered personality material from a straightforward interview technique, is worth his salt.

On the whole, one must have considerable respect for the amount of time and effort that have gone into MMPI research since the first studies on it appeared in 1940. This time and effort has borne sufficient fruit to make it now appear that the instrument is quite useful for many kinds of group discrimination.

About its usefulness for individual clinical diagnosis, the present reviewer, for one, is still far from enthusiastic.

Another reviewer sums up this one in little more favorable terms, although I don't mean to imply that the first reviewer was completely unfavorable:

This instrument is probably the most carefully constructed and thoroughly researched inventory available for personality assessment. It is likely to be an increasingly useful clinical tool.

The point of all this is clear, that within the profession itself there is a wide divergence of opinion as to individual tests, their purpose, their utility, their theoretical foundation.

Now, to return to the recommendations that you have made that there be agency staff psychologists and interagency committees of psychologists and advisory panels of psychologists, does not the fact there is in the profession considerable disagreement about individual tests, and I am sure you will agree about the theory of testing, pose a real problem to getting a workable system, or a workable committee or panel that will be actually more than a debating society?

Dr. BRAYFIELD. Well, the fundamental split is that there are psychologists who know measurement and make use of tests, and there are psychologists who feel they themselves are such finely calibrated instruments that they would never make use of tests. I think it would be useful to have both types on the advisory committee.

Mr. GALLAGHER. Thank you very much, Doctor.

Mr. GALLAGHER. Professor Freedman, do you have a prepared statement?

Mr. FREEDMAN. I have, in part, but I am going to interject.

Mr. GALLAGHER. Would you proceed.

STATEMENT OF MONROE H. FREEDMAN, ASSOCIATE PROFESSOR OF LAW, GEORGE WASHINGTON UNIVERSITY

Mr. FREEDMAN. Mr. Chairman, this committee has done outstanding service in its thorough investigation of psychological testing, which has become increasingly and alarmingly prevalent not only in Government employment but also in private industry and education. The serious abuses inherent in such testing are of deep concern to conservatives and liberals alike, since the political philosophy of both groups is founded on the major premise of the dignity of the individual.

Significantly, strong objections to such testing have already been expressed in magazines ranging from the *National Review* to the *New Republic*.

The Minnesota Multiphasic Personality Inventory (MMPI) is one of the most widely used tests of this kind. It contains 566 questions, which are all to be answered true or false, "quickly and without thinking or deliberation." These questions illustrate the propensity for psychological questioning to intrude into areas formerly reserved for the privacy of such confidential relationships as husband wife, priest and penitent, or doctor and patient.

To show briefly the kinds of subjects that are covered, I have selected only a few illustrative questions:

A. Questions relating to private thoughts.

"I think of things too bad to talk about."

"I dream frequently about things that are best kept to myself."

B. Questions relating to religion.

"I believe there is a God."

"I believe in the second coming of Christ."

"Christ performed miracles such as changing water into wine."

"I go to church almost every week."

"I believe there is a devil and hell in afterlife."

C. Questions relating to sexual matters.

"I am worried about sex matters."

"I wish I were not bothered by thoughts about sex."

"When a man is with a woman he is usually thinking about things related to her sex."

"There is something wrong with my sex organs."

D. Questions relating to family matters and social life.

"Some of my family have habits that bother and annoy me very much."

"My relatives are nearly all in sympathy with me."

"My parents often objected to the kind of people I went around with."

"I loved my father."

That last question raises an interesting issue as to the quality of this kind of test and the suggestion that Congressman Rosenthal made earlier that the testmakers themselves may be in need of psychological help. The question is true or false, I loved, in the past tense, my father. It is possible to say no, that you never loved your father. It is possible to say yes, I loved my father, implying that you do so no longer. It is impossible to answer that question in such a way as to indicate you have always loved your father and still do.

Let me assert emphatically at the outset that the supporters of this kind of examination have failed to carry the heavy burden of proving that such questions have any significant relationship to fitness for Government, or any other employment.

Although they talk in terms of scientific knowledge, there has been no true scientific support of these tests by means of control studies or test validation. Moreover, not a single supporter of the tests has had the candor to reveal to the subcommittee the ease with which most—probably all—of such tests can be coached or faked. Perhaps most important, the testers can never tell us the number of sensitive, decent, self-respecting citizens who are lost to Government employment because they prefer not to subject themselves to the indignities of psychological testing, and who therefore do not apply.

I have heard too many psychiatric experts under oath in court disagree with each other's diagnosis, each relying upon individual psychiatric interviews, to put any faith in the accuracy of short-answer written tests, which are admitted inferior to interviews.

Even in the few short statements presented in these hearings the scientific experts have disagreed in their scientific conclusions.

Dr. Al Carp of the Peace Corps, for example, while admitting that the questions relating to religion and sex are "not only personal but unpleasant as well," nevertheless defended these questions as necessary to psychological testing.

On the other hand, the Medical Division of the Department of State, which is no less intent upon psychological testing, has found it possible to fulfill its personnel responsibilities despite elimination of all questions pertaining to religion and sex.

I feel compelled to add that I am unable to give substantial weight to the testimony of psychologists regarding the importance, accuracy, and value of their own tests, and I may add, as to their own expertise in giving the tests.

Unquestionably there is at least unconscious bias favoring testing on the part of those whose living is earned by composing and administering the tests. I have seen too much partiality on the part of allegedly impartial psychological experts in court, to indulge the assumption that our scientific experts are any less prone to ordinary human interest and bias than are the rest of us.

Illustrative is the pious avowal of Dr. Brayfield, executive director of the American Psychological Association, that his organization has no financial interest in the psychological testing, because the APA neither composes nor sells tests. What he neglected to say is that the members of the APA, whom Dr. Brayfield is paid to represent at these hearings, do have a very direct and substantial financial interest in such tests.

Dr. Brayfield's testimony, therefore, is less than disinterested although he would have the subcommittee believe otherwise.

Despite the inconsistencies in scientific conclusions by the scientific experts, and despite their failure to carry the burden of proving the reliability of psychological testing, I am willing to assume *arguendo* that such tests do have some degree of reliability.

Even so, their use is insupportable. It is not at all farfetched to assume, for example, that a reliable truth serum could be administered as quickly and as inexpensively as written psychological tests. Undoubtedly, the accuracy of interrogation under truth serum would far surpass the uncertain inferences from a fakable written test. I trust that none of us would support such an affront to personal dignity, even in the name of pursuit of knowledge, yet I find it hard to distinguish the two methods.

There is a clear analogy in the due process principle that excludes involuntary confessions regardless of reliability. As Justice Frankfurter wrote for the Court in a case involving only psychological pressure, with no physical coercion at all:

Our decisions * * * have made clear that convictions following the admission into evidence of confessions which are involuntary * * * cannot stand. This is so not because such confessions are unlikely to be true * * *. Indeed, in many of the cases in which the command of the due process clause has compelled us to reverse State convictions involving the use of confessions obtained by impermissible methods, independent corroborative evidence left little doubt of the truth of what the defendant had confessed. Despite such verification, confessions were found to be the product of constitutionally impermissible methods * * *.

This is so because the methods used to obtain such confessions are offensive to an underlying principle in our system of Government.

The essence of that principle was voiced by Justice Holmes in a wiretapping case nearly 40 years ago:

* * * For my part I think it a less evil that some criminals escape than that the Government should play an ignoble part.

Surely it will not be contended that Federal employees, and I might add schoolchildren, are less entitled to the protection afforded by this fundamental principle than are criminal defendants, or that it is less serious to have a dangerous criminal at large than it is to have a psychologically inadequate employee, or that occasional wiretapping of suspected criminals is more ignoble than the wholesale "brain-tapping" of Federal employees, and of schoolchildren.

It was in his famous and much approved dissent in the same case that Justice Brandeis prophesied the very kind of problem that we face today.

Referring to "subtler and more far-reaching means of invading privacy," Justice Brandeis predicted that "advances in the psychic and related sciences may bring means of exploring unexpressed beliefs, thoughts, and emotions."

"Can it be," Justice Brandeis asked, "that the Constitution affords no protection against such invasion of individual security?" And he answered this question:

The makers of our Constitution * * * recognized the significance of man's spiritual nature, of his feelings and of his intellect * * *. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment * * *.

Justice Brandeis might well have been directing himself to the MMPI test itself, in his direct references to the constitutional protection of beliefs (I believe there is a devil and a hell in afterlife); thoughts (I think of things too bad to talk about); emotions (I am attracted by members of the opposite sex); and sensations (I enjoy the excitement of a crowd).

Clearly people are not "secure in their persons," within the meaning of the fourth amendment, when answers to such questions may be demanded of them.

It is significant that only last term the Supreme Court had occasion to broaden the "zone of privacy" protected by the fourth amendment in a case involving marital sex relations.

The critical point is that if one ideal distinguishes the free society from the totalitarian, it is a recognition that things of the mind and the emotions are inviolably personal. An analogy is sometimes suggested between detection of a dangerous physical disease and detection of dangerous ideas, attitudes, or personality traits. This is, of course, a common justification for the oppressions of totalitarian governments.

If that analogy between physical examination and personality examination is sound, the most cherished ideals of Western civilization, freedom of speech, freedom of religion, freedom of association, the sanctity of the individual, all these are false.

I have been told by one psychologist, however, that "the test is used only for a limited purpose, and only within our own agency." This protestation fails to take into account several important and undeniable facts.

First, a psychological test does not destroy itself with a single use. The same test answers that are used today to assess adaptability to

new surroundings or tolerance of stress may well be used tomorrow to assess any number of other personality characteristics, including submissiveness, rebelliousness, responsiveness to suggestion, loyalty, dependence on authority, political reliability, et cetera.

The questions directed at schoolchildren, for example, regarding what magazines their parents read have potential parallels to the duty of the child in Nazi Germany and Communist Russia to report on the political inclinations of their parents.

Is it better for a parent to read *Business Week*, *National Review*, of the *New Republic*? The testers don't tell us.

Nor does it suffice to say that a particular test was designed only for a specific harmless purpose. A test developed for one purpose may ultimately be found to have a number of other uses—or, worse yet, may be imagined to have other uses—not contemplated originally.

It is of critical importance, therefore, that modern computer technology makes it possible to analyze, store, and retrieve quantities of data that would have been impossible to use on a comprehensive basis formerly. Thus, a central law enforcement agency can today compile dossiers of the most extensive and intensive type. The ready availability of psychological tests of tens of thousands of our citizens is, therefore, not the least frightening aspect of the impact of modern technology on the relationship between State and citizen.

The unconstitutionality of such questioning is not limited to the fourth and fifth amendments. The numerous questions regarding religious beliefs and practices violate the first amendment as well.

The Government cannot, as a condition of employment, inquire into such matters, as has been held by the Supreme Court in the *Torcaso* case. Needless to say, I am not made easier on this score by the strangely phrased assurances of a leading psychological testing expert that "not every aspect of religion is at times symptomatic of mental illness."

On occasion, the supporters of such tests have disingenuously contended that "there are no wrong answers" to the questions asked.

First, the average examinee does not know this, and could not be expected to believe it with certainty even if told it. Why else would he be asked whether he believes in God (the very question held unconstitutional in *Torcaso*) unless the inquisitor is interested in his giving the correct answer?

Second, are we—any more than the examinee—to believe that it is really a matter of indifference whether the answer be yes or no?

And is the Congress of the United States prepared to go on record as endorsing the "scientific" conclusion that there is no correct answer to the question of the belief in God?

It has been occasionally suggested that Government employees forfeit their constitutional rights when they apply for work.

Justice Holmes, while he was sitting on the Supreme Judicial Court of Massachusetts, came to this conclusion, holding in the *McAuliffe* case that a citizen has a constitutional right to speak but no right to be a police officer. Apparently few are aware, however, that Justice Holmes appears to have rejected his earlier position, and that the Supreme Court of the United States clearly has done so.

In direct response to the McAuliffe notion, the Supreme Court has held:

We need not pause to consider whether an abstract right to public employment exists. It is sufficient to say that constitutional protection does extend to the public servant * * * .

Similarly, Justice Frankfurter has observed:

* * * It does not at all follow that because the Constitution does not guarantee a right to public employment (the Government) may resort to any scheme for keeping people out of such employment. * * * To describe public employment as a privilege does not meet the problem.

Concurring in this development, the editors of the Harvard Law Review have noted that the logic of the *McAuliffe* decision threatens "dangerous consequences" to fundamental liberties. Accordingly, the Court has developed the doctrine that "unconstitutional conditions" may not be imposed on the grant or retention of a privilege. In a leading case in this development, Justice Holmes dissented, relying on the *Prewitt* case. However, in *Terral v. Burke Construction Co.*, Justice Holmes was a member of a unanimous Court that expressly overruled the *Prewitt* case and firmly established the rule that the Government may not condition the grant of privileges upon the relinquishment of constitutional rights.

There is, therefore, no merit today, if there ever was, in the contention that the protections of the first, fourth, and fifth amendments do not extend to Government employees.

A similar contention has been raised, however; that is, that the examinees consent to these violations of their fundamental rights. The first answer is that consent is meaningless unless the examinee knows what he is consenting to. He may know the questions, but he does not know the answers, the purpose for eliciting the answers, the inferences that might be drawn from his answers, nor the significance of the inferences. Many such tests, if not all of them, depend in part for their success on the ignorance of the examinee as to what he is being tested about. Truly informed consent requires advance disclosure of the psychological inferences to be drawn.

The second answer to the contention is that the job applicant who wants the job is not truly a free agent.

Mr. Shriver has testified, for example, that Peace Corps volunteers consented to testing and that he receives few complaints about it.

The reason for this is expressed eloquently by a young lady who served with the Peace Corps for 2 years, and who is entirely in sympathy with the Peace Corps, but who is distressed by the psychological testing to which she was subjected. She wrote in part:

A Peace Corps program is not like applying for a job. For all intents and purposes, you are in the job. For the recent college graduate it is his first job, and if he is deselected, he has failed at his first job. For the more experienced, it means quitting a previous job, getting rid of an apartment, and making other financial arrangements. The PCV is on trial. He is made to feel insecure. Most important, he has invested himself emotionally and financially by entering training. He is reluctant to jeopardize his investment in any way.

It is hardly surprising, therefore, that there would be very few complaints. It would take a particularly strong and sophisticated person to complain without the fear of being found to have "personality difficulties." The trainees are extremely hesitant to call attention to themselves in that way.

In fact, I once met Mr. Shriver briefly. I mentioned the tests, and he said, "Yes, they are spooky," and looked away as if he were preoccupied with more important matters. At that point I did not have the strength and sophistication to persist without feeling like a troublemaker. Nevertheless, I felt that a strong conviction had been charmed into betrayal. One reason Mr. Shriver has received so few complaints is that it would take an exceptional person not to be overcome by his charisma.

The psychological tests, however,

I am still reading from her letter——

Mr. ROSENTHAL. This is a letter addressed to whom?

Mr. FREEDMAN. To me, by a former Peace Corps volunteer, and one who is as gung ho on the Peace Corps as anyone can be. She thinks it is the greatest thing this Government has done in recent years, but she was deeply offended by the tests and wrote to me about them.

The psychological tests, however, raised problems ranging from simple insult to a stripping away of one's privacy and dignity and self-respect. They don't need to know that much about me to assess me as a volunteer. I can assure you from personal experience that many Peace Corps volunteers found their training to be a horror of Orwellian thought control.

That is the end of the quote from her letter.

Finally, we are told that such testing is in the interest of the United States, the interest of the Peace Corps, or "perhaps most important * * * (in the Peace Corps) volunteer's own interest"—and Justice Brandeis spoke eloquently to this issue also.

Experience—

he wrote—

teaches us to be most on our guard to protect liberty when the Government's purposes are beneficent * * * The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well-meaning but without understanding.

We might further observe that it is somewhat presumptuous to suggest that only some Government employees are of such vital importance to the national interest to warrant psychological testing. Are Peace Corps volunteers more important than Congressmen? Are HEW Secretaries more important than Senators? What is the logic that excuses the President's Cabinet from questioning so vital to national welfare?

Indeed, can we really afford to have a President, in the most trying and important job in the world, who is less psychologically and emotionally stable than a Peace Corps volunteer?

If the tests are all we are assured they are, surely not a single public official should be immune.

It seems to me, Mr. Chairman, that we have gotten our values badly skewed up, when we can be more concerned with screening out an occasional psychologically inadequate employee than we are with the gross affronts to personal dignity that are perpetrated against large numbers of other citizens in the process.

In view of the some of the testimony I have heard, it seems necessary to return to elementary truths: The end does not justify the means. Whatever dubious good may come from dissecting, cataloging, and evaluating the most personal thoughts and beliefs of individual citizens, it will never justify the great injury done to all of us, individually and as a society, in the process.

Accordingly, Mr. Chairman, I would respectfully urge that this subcommittee draft and propose legislation prohibiting interrogation

of Federal employees, of private employees under industrial personnel security regulations, and of schoolchildren in federally financed research projects without truly informed parental consent, by the use of questions relating to religion, politics, personal thoughts or habits, private family matters, and sexual matters. Such legislation is essential. We cannot rely upon self-regulation by those men (in Justice Brandeis' gentle but devastating phrase) "of zeal, well-meaning, but without understanding."

Nor can we rely upon sensational assurances of changed test policies. The policy rescinded with fanfare during congressional investigation today can readily be quietly restored tomorrow.

Moreover, it is important that the Congress express our national public policy on this issue through legislation. I commented a while back to one of the proponents of psychological testing that only a professional Peeping Tom could compose and administer such a test. He replied with equanimity that it is not unlawful to be a Peeping Tom. I submit to you, Mr. Chairman, that it is time that these practices be declared unlawful, and the professional Peeping Toms be eliminated from positions of such high authority and such great power in our Government.

I am grateful to you for the opportunity to testify today.

Mr. ROSENTHAL. Thank you very much. I would say that you have a very potent statement and a very clear position. I wonder if I could break it down into two categories, though.

Unquestionably, based on your experience as a lawyer and law professor, you feel that the psychological tests are an invasion of privacy, and, for that reason alone, would be sufficient to eliminate them and legislate them out of business.

Mr. FREEDMAN. Yes, sir.

Mr. ROSENTHAL. Is it your opinion that they are inadequate for the purpose they pretend to meet, that they don't even qualify as a sound scientific means?

Mr. FREEDMAN. Absolutely, and I am speaking now also as one who, for over 10 or 11 years, has been involved as a consultant to the Educational Testing Service concerning, in part, psychological testing, and I am familiar with test validation and other means of checking out whether a test should be used before it is used to count.

For example, when we give the law school admission test, we do not use a question on that test for score until it has been given and checked against actual law school performance. It has never been done in Government service, that one of these tests has been given and then checked out against performance before it was used to screen people out. They are using these tests to screen people out without even knowing whether the test is valid for that purpose.

Mr. ROSENTHAL. To what do you attribute this enormous growth of the use of psychological testing?

Mr. FREEDMAN. I think part of the problem is the large volume of personnel problems and a desire to simplify these problems by giving a quick test, running it on a machine and getting a quick answer.

I think, however, we have also built a kind of idol of the scientist, and in this area it is totally unjustified.

Dr. Brayfield talks about people unqualified to give the test. I am not satisfied that those people who Dr. Brayfield would like to give the test are people with whom I would be satisfied as competent.

It is too much of a temptation for a man who is offered an important post with an important Government agency, asked to formulate or find a written short-answer test that will solve all of the agency's problems, it is too much of a temptation to him to pick up the nearest available test and start giving it wholesale.

Mr. ROSENTHAL. Do you think high-level Government officials fall back on this as an easy way to solve otherwise difficult personnel problems?

Mr. FREEDMAN. I think that is part of the difficulty, and I think also there has been simply uncritical acceptance of the purported scientific conclusion that these tests work.

Mr. ROSENTHAL. Take the case of the Peace Corps, and you referred to Dr. Carp's testimony, which I remember well. The Peace Corps started from scratch. They had to have an enormous program of enlisting people and, of course, Congress was interested in them getting bright, dedicated, zealous young people who would promote a good image of the United States overseas and they had to recruit a large number of people in a hurry.

I assume their position is that this mass testing permitted them to eliminate those people who wouldn't fit the general category of the type of person they were interested in, and that had they had to resort to individual interviews, they would have been years in getting cranked up a program that they got started in a matter of months.

In this case, didn't the testing, assuming it has some degree of validity, serve a useful purpose?

Mr. FREEDMAN. On the basis of your assumption, perhaps, but we will never know whether the people who were screened out were the worst or the best.

In addition, the fact is that the Peace Corps has a 3-month training program under which the volunteers are under the most intensive scrutiny. Of all the agencies in the Government that do not need this kind of half-baked written short-answer machine-graded test, the Peace Corps is the one that needs it least, because they have the fullest kind of FBI investigation, interviews, and a 3-month training program.

Mr. ROSENTHAL. I want you to realize for the moment I might be the devil's advocate for the sake of developing the record here, but they contended that one of the reasons that they had such a low grade of failures on the job was their high degree of selectivity they used to which the testing contributed substantially.

Mr. FREEDMAN. That, they don't know. They had a high degree of success and I am very happy for it, but in my judgment the test was, at most, of minimal assistance, a makeweight on the scale when you consider the full field investigations that were made on these people, the 3-month training program under scrutiny, and the opinions that were solicited from the people who were supervising the training as well as from the volunteers about each other.

Mr. ROSENTHAL. Maybe they eliminated large numbers of trainees from the training program, which was probably a very responsive kind of program. In other words, after we had invested 2 months of training in an individual, to then exclude him from the program, we would have lost a great deal of money.

Mr. FREEDMAN. That may or may not be true. Again, we don't know because it has never been proven out. It was an assumption.

The assumption was acted on. I do know from the same young lady who wrote this letter that she has spoken since with a large number of other fellow former Peace Corps volunteers who agree with her completely. I know that in a recent training program what she referred to as a very high-powered couple from two of the best universities in the country dropped out of the program voluntarily because they objected to what she has referred to as "the horror of Orwellian thought control" that they were being put through.

Mr. ROSENTHAL. One of the objections you had to the testing was that the answers could be kept and maintained for other purposes after the initial testing was concluded.

Now the Peace Corps has told us that immediately after they had compiled the answers, that they would be destroyed or burned so they couldn't be used for any secondary purposes.

Mr. FREEDMAN. That may or may not be true in the Peace Corps today. But whether it is true in other agencies is problematical. Whether it will be true in the Peace Corps tomorrow is just as dubious.

That policy, just as it was announced in connection with these hearings, could be changed tomorrow and no one would know the difference and no one would be violating any kind of obligation in doing so.

Mr. ROSENTHAL. At any rate, to put your testimony in simple terms, even if these tests had some degree of scientific success or reliability or dependability, you strongly oppose the use of them purely on constitutional grounds.

Mr. FREEDMAN. On constitutional grounds and on the related grounds that we are committed to a free society, the kind of society that respects the thoughts and emotions of the individual. That concept is perhaps the most important thing that distinguishes us from the totalitarian government, and to interfere with that kind of personality identity is the most horrendous kind of thing the Government can do.

Mr. HORTON. Professor Freedman, you referred to the statement of Justice Brandeis with regard to one of our greatest dangers and stated this was in the encroachment by men of zeal, well meaning, but without understanding. Brought to my attention is a project which was approved in 1960 by the Office of Education, which I think is a good example of misguided scientific research zeal.

This project was approved in 1960 by the Office of Education and it did not then, and I am sure does not now, condone this type of thing that I am about to describe.

They did not have knowledge of it until the final project was submitted in 1963, and I hope that the current procedure they talked about this morning will reduce the chances of something like this happening again, and reduce them to a minimum.

Incidentally, this project received a payment from the Office of Education of some \$17,750. The title was "Education Aspirations and Attitudes of Married Undergraduate College Students Compared to Unmarried Undergraduate College Students," with an analysis of certain associated variables.

Now, it involved administering questionnaires to a random sampling of married and unmarried undergraduate students. It was submitted to these students on a voluntary basis and the questionnaires were then followed up by a personal interview.

Many of the questions are extremely intimate, penetrate deeply into marital and premarital relationships, including sexual activities and religious background and birth control matters and such family background matters as religious and personal attitudes and economic circumstances.

I would like to just refer to a few of them. There are about 115 of these questions.

No. 25, in reference to where you and your wife live at present, check the statement which most nearly describes your situation. "We are living together." "We are living separately because she goes to another college." "We are living separately because we do not have jobs in the same city." "We are living separately because we do not get along well together." "We are living separately for another reason." And then, "What is the reason?" And there is a blank left for that.

Thumbing on through, I have just picked out some—I will not read all of the questions except just to read the top part of it:

Question 42, "Did you have any particular difficulty in paying for any special category of family needs?" It lists some eight or nine special family needs that are fairly close to a marital situation.

No. 63, in reference to planning for the size of your family, check all that apply. "I do not believe in planned parenthood." Then it has other questions that relate to that type of thing.

Our chief source of information about planned parenthood has been—I do not believe in it—friends, neighbors, relatives, et cetera.

Then, under family background: "What is your religious affiliation at present?" "What religious atmosphere were you brought up in?" "What is your mother's religion?" "What is your father's religion?"

Then it goes on: "What is your parent's income at present?" "How old was your father when he got married?" "How would you rate the happiness of your parents' marriage?" "How do you view your own childhood?" "Happy most of the time?" "About an equal mixture of happiness and unhappiness?" "Unhappy most of the time?"

"How old were you when you first went steady?" That is, went only with one girl, with at least two dates a week for at least 3 months at a stretch, and had an understanding with her that she was your steady. It starts out at age 10 and goes to age 22.

I don't know what happens before or after.

"With how many different girls did you go steady?" There is a blank left for that. A small one.

No. 96, "How old were you when you first had nocturnal emissions?"

No. 97, "How old were you when you first kissed a girl, aside from a kissing game at a party?"

Then it gets a little bit personal.

No. 98, "How old were you when you first had experience in premarital—like petting? For example, touching a girl's breast?"

No. 99, "How old were you when you first had experience in premarital heavy petting? Genital contact short of intercourse."

Then it goes on, and I will skip some of the others because they get a little bit more personal.

No. 104, "My mother's attitude toward our getting married while I and my wife were still in college was"—and there are certain questions

there. "My father's attitude." "My mother's attitude toward our marriage is now * * *."

No. 107, "My father's attitude toward our marriage is now * * *."

No. 109, this asks for the main reason why they got married. One was: "My wife was pregnant." Then it goes on for 115 questions.

Now the thing that is disturbing about this was that the persons who took the examination were informed this was a very confidential type of examination that they were taking. They were also informed that they would have this personal interview afterwards, but then, these were the instructions given to those who were to make the interviews, and this is the point I tried to get across, that sometimes they overused this zeal. It says: "Read filled in questionnaire first." That is the questionnaire they filled out. "But don't 'let on' that you have." That is underlined. Then it says: "Supposedly anonymous." It goes on and states the basis for their personal interview.

This is the type of thing that was approved as a project. It shows the most intimate type of questioning and it also certainly was a violation of the confidence that those who participated—this happened to be in a rather large university up in the Northeast, not too far from my district.

Now this is the type of thing we are talking about.

Mr. FREEDMAN. Yes; it is. It is an extreme example, but it is.

There was a reference earlier to Playboy magazine. In view of the kinds of questions the psychological testers are interested in, it might be well to appropriate money to supply them all with copies of Playboy and then they might feel free to leave the rest of us alone in our private lives.

Mr. HORTON. I don't want to pass on the merits of the magazine, but I do feel this is certainly without the bounds, and this was a project approved by the Government. I am certain it is not happening now, and we had testimony today that it won't, but it does indicate that these things can be carried to extremes and it does also point out the point that you are making, that if these things are given, there certainly should be protection for the confidential nature of this, and that, in and of itself, it seems to me, is a violation of the Constitution, especially where people do volunteer to give this information on that type of a basis. Their rights are certainly being invaded when this information is being made available to a person who is going to question them, and I assume those who were questioning had qualifications to qualify themselves for making this type of personal interview, but again I am not sure.

Mr. FREEDMAN. I think, also, it is worth pointing out that the problem is not always revealed in such blatant questions as you read. The questions can appear to be entirely harmless and to have nothing to do with anything that anyone cares about, and the psychologists, in their wisdom, have decided that they can draw inferences about your sex life, loyalty, religion, whatever it may be, by asking questions that appear to have nothing to do with these things.

At the Educational Testing Service, for example, some years ago, I was told about a personnel manager in a very large industrial plant in one of the Southern States, who asked the apparently innocuous question of every potential employee: "Are you right handed or left handed?" Of course, everyone consented to answer that question.

No one knew that, in the judgment of the personnel manager, left handedness was a sure sign of emotional instability. Now, there is a plant, therefore, of 2,000 people, in which there is not a single left-handed individual. That is kind of a simple illustration. But the inferences can be much more serious and much more far reaching than those.

Mr. CORNISH. Would you agree, Professor Freedman, that perhaps many of these questions would not be harmful at all if they were used strictly for a psychological examination? But there are a number of questions on these questionnaires and tests that if used for another purpose other than the one they were originally intended for, would possibly affect them adversely.

As a matter of fact, some of the questions on the Minnesota Multiphasic Personality Inventory are crimes, in themselves, per se, are they not, in some jurisdictions?

Mr. FREEDMAN. Yes, sir.

Mr. CORNISH. I wonder also if you would agree with me that the invasion of privacy takes place at the point the question is asked rather than at some later point?

Mr. FREEDMAN. Yes, I do. I think that that is the most offensive aspect of it, or at least the threshold offense. Now, of course, it gets much worse as in Congressman Horton's example where people are assured this is going to be confidential and that confidentiality is violated, and you have learned of that instance. There may be any number of others that we have not heard about. But I do agree that the very asking of these questions is offensive.

There is something we call in educational testing the feedback effect. For example, one of the reasons we ask questions about English language on the Law School Admission Test is to feed back to the students an awareness of the fact that in law schools we do want people who are well trained in English, and having seen that they get questions involving their English ability, we hope, and in fact it has proved out, that they take more courses in English than we might otherwise have done.

Now the feedback effect that you can get with some of these other questions is a very dangerous thing. For instance, "What magazines are read in your household?" People may well start being concerned about whether it is better for their children's benefit in their academic careers that they get U.S. News & World Report around the house instead of the Nation; or the New Republic instead of National Review, and in that way there is a degree of political control that is highly undesirable.

That is only one illustration of a potential feedback in this kind of question.

Mr. CORNISH. You heard Dr. Brayfield testify that in his view it was perhaps best to leave many of these matters to the wisdom of the psychologists and the people who give these tests to determine the ethics involved. Do you feel that there is a matter of public policy involved here when Federal funds are utilized in these activities?

Mr. FREEDMAN. Very clearly; yes. I don't know how Dr. Brayfield goes about selecting his qualified people. I suspect that one of the qualifications is that they be dues-paying members of the American Psychological Association. But a Ph. D. does not guarantee wisdom,

and it certainly should not be a license for "Peeping-Tomism" of the most offensive kind.

In all honesty, I would rather have somebody looking in my window than in my mind.

Mr. ROMNEY. Just for the record, I want to refer to one of the standards legal reference works, "American Jurisprudence," which, under the subject heading, "Disorderly Conduct," has this statement, from page 100, volume 17:

Peeking into the windows of an occupied lighted residence at the hours of night when people usually retire by one who has no business there constitutes indecent or insulting conduct or behavior within the meaning of an ordinance relative to disorderly persons and an improper or unlawful purpose is not necessary to constitute the offense.

I merely cite that to remove any implication that your acquaintance's reference to "Peeping Tomism" not being unlawful is, in some jurisdictions at least, not true.

Mr. FREEDMAN. Yes; I am aware of that. I appreciate your mentioning it, and, indeed, I did not mean to encourage anybody to look in my window.

Mr. ROMNEY. One brief question: Where a set of questions verges into an area which is constitutionally protected and these questions are asked of minors, do you think that the parents should be regarded as being able, in law, to waive any constitutional right that is involved, waive it on behalf of the minor child?

Mr. FREEDMAN. I would be inclined to say yes. In all honesty, I have not given that considerable thought, but I would say, at least, there should be knowing waiver by the parent, and, again, by "knowing" I do not mean general information about what a great test this is, or even reference to some specific questions or areas to be covered, but the parent should also know what kind of inferences are going to be drawn about his child from these questions and answers and what use those inferences are going to be put to.

Again, the question may seem entirely innocuous, and yet, the interviewer may be trying to find out whether the child is emotionally unstable or Lord knows what else.

Mr. ROSENTHAL. Thank you very much.

The subcommittee stands adjourned.

(Whereupon, at 1:20 p.m. the subcommittee adjourned.)

(NOTE.—Selected portions of the transcript of these hearings were published independently by a professional association in November 1965. These numerous and often extensive extracts were printed without benefit of available witnesses' and Members' corrections of the reporter's transcript.)

APPENDIX

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PRIVACY AND BEHAVIORAL RESEARCH†

OSCAR M. RUEBHAUSEN* AND ORVILLE G. BRIM, JR.**

A successful society is marked by an ability to maintain a productive equilibrium between numerous competing forces. The goal of our own federal political system is to assure for the individual an ample range of freedom, and an ample opportunity for diversity. By tradition and conviction our form of democracy jealously seeks to protect the individual from accumulations of power. This protection finds its expression, for example, in the separation of powers in government, the divorce of church and state, the civilian control over the military, and in the working of both the labor and antitrust laws against the concentration of economic power.

The familiar and constructive tension which exists between science, with its need to be free and open, and society, with its need for restrictions on individual freedom, is thus only one of many examples of conflicting forces that must be held in balance to assure individual dignity, creativity and well-being in our society. This tension between society and science extends to all the disciplines in the social, physical and life sciences. It affects the practitioner as well as the research investigator.

Examples of this tension are many, and one of the most familiar is the conflict of secrecy for purposes of national security with the free dissemination of knowledge. This conflict is especially complex since dissemination of knowledge is essential to the very developments in science, in industry, and in government upon which the security of the nation ultimately rests. Additionally, there is the equally familiar conflict between proprietary interests and the disclosure of scientific knowledge. The private property interest at odds with disclosure may be personal or institutional, commercial or non-profit, but the conflict is essentially the same. In each of these two illustrative areas of conflict, tension still exists, but accommodations, imperfect as they may be, have been worked out to balance the competing needs and to serve the public interest.

There is, however, another area of tension involving the freedom of science which is not nearly so well recognized. This is the conflict of science and scientific research with the right, not of private property, but of private

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* Member of the New York Bar; Chairman, Special Committee on Science and Law of the Association of the Bar of the City of New York. With the support of the Carnegie Corporation of New York, the Special Committee is engaged in a study of the impact of modern science and technology upon privacy. This article is one product of that study.

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personality.¹ And it is to this particular conflict in values that this article is addressed.

I. THE MORAL CLAIM TO PRIVATE PERSONALITY

Although scholars may trace its origins into antiquity, the recognition of a moral claim to private personality is relatively modern. For most of our recorded history, privacy was not physically possible in either the home, or the place of work or of public accommodation. Furthermore, privacy of belief or opinion clearly was not respected until the last few centuries. The record of autocratic government, both temporal and spiritual, is long and disheartening. Robert Bolt, in his moving drama, *A Man for All Seasons*, had the doomed Sir Thomas More say to his inquisitors: "What you have hunted me for is not my actions, but the thoughts of my heart. It is a long road you have opened. For first men will disclaim their hearts and presently they will have no hearts. God help the people whose statesmen walk your road."²

Three of the great forces that have nourished the modern claim to privacy are science, the secularization of government, and political democracy. It was, for example, science that brought about the industrial revolution and made privacy physically possible. Consider, as a small sample, what steam heat and plumbing have done to the design of our homes and to the manner of our living in them. Further, the separation of church and state encouraged pluralism as well as diversity in religious belief. And it was political democracy that in the last analysis truly elevated the concept of the essential worth and dignity of the individual to the place it now holds in the western world.

It is therefore only in the last few centuries that the primacy of the individual has emerged, has been articulated by philosophers, reflected in political institutions, and implemented in law. Although the moral claim to a private personality has developed along with the claim to individual freedom and dignity, such development has proceeded at a slower rate, perhaps because the western preoccupation with private property as the tangible expression of the dignity of the individual has tended, for more than a century, to obscure the claim to private personality on which the claim to private property was based. Not only did the interest in private property obscure the human claim to privacy but, over the years, it tended to define the claim itself.

Thus, in the absence of trespass, bodily injury, theft, or tangible damage measurable in money, as in the case of defamation of reputation, our law has often failed to perceive injury to the private personality. This has led to such legal anomalies as now exist with electronic eavesdropping devices. Thus, if an eavesdropping device is placed next to a wall by a police officer, or brought into one's room concealed on the person of an invitee, then, under present

1. See generally Shils, *Social Inquiry and the Autonomy of the Individual* in *THE HUMAN MEANING OF THE SOCIAL SCIENCES* 114 (Lerner ed. 1959).

2. BOLT, *A MAN FOR ALL SEASONS*, ACT II, at 157 (Random House 1962).

federal law, there has been no affront to an individual's constitutional rights. Yet, should the device be a spike microphone and penetrate an apartment wall by only a few inches, then a trespass³ has been committed and the fourth amendment violated.⁴

Just fifty years ago Dean Roscoe Pound published a paper in the *Harvard Law Review* on "Interests of Personality."⁴ There he identified the claim to private personality as "the demand which the individual may make that his private personal affairs shall not be laid bare to the world."⁵ But though he thought the interest was clear, the law, he found, had been slow to recognize such an interest and raise it to the dignity of a legal right.⁶

Even had society's developing awareness of the claim to privacy not been blunted by the then dominant commercial concern for tangible property as evidence of personal worth, the establishment of a right of private personality was destined to be slow. For this there are a number of reasons. The right of privacy is largely a subjective, incorporeal right, difficult to identify and incapable of measurement. Other more definable values—such as freedom of speech—loomed larger a century and less ago. Until recently, furthermore, science had not provided the devices which, circumventing the old concepts of property, make surveillance possible without an actual trespass. In addition, the modest range of governmental activities of a half century and more ago made the threat to the individual from government seem negligible. The formidable attributes of concentrated economic power were, also, only beginning to be appreciated. Indeed, the aggressive spirit of individual self reliance which prevailed in America would have made society's concern for the private personality seem incongruous.

It is reasonable, moreover, that the claim to privacy should evolve slowly, for privacy is in conflict with other valued social interests, such as informed and effective government, law enforcement, and free dissemination of the news. Whenever competing rights and values confront each other, it is always a slow and arduous process to evaluate the claim and counterclaim in real life situations. This process, however, is a classic function of the law. In time, therefore, the boundaries between the permissible and unreasonable

3. Lack of trespass was cited by the Supreme Court in refusing to invalidate the use of a detectaphone on the outer wall of a hotel room, *Goldman v. United States*, 316 U.S. 129 (1942); see *United States v. Pardo-Bolland*, 348 F.2d 316 (2d Cir. 1965), *petition for cert. filed*, 34 U.S.L. WEEK 3081 (U.S. Sept. 2, 1965) (No. 521); in allowing the use of a concealed transmitter by a government undercover agent in a suspect's laundry, *On Lee v. United States*, 343 U.S. 747 (1952); and in upholding the use of a concealed recorder by a tax agent in a suspect's place of business, *Lopez v. United States*, 373 U.S. 427 (1963). In *Silverman v. United States*, 365 U.S. 505 (1961), the decision excluding evidence was based on the actual penetration of an apartment wall by a spike microphone which, by making contact with a heating conduit, enabled the police to overhear every word spoken within the house.

4. Pound, *Interests of Personality*, 28 HARV. L. REV. 343 (1915).

5. *Id.* at 362.

6. To the extent that the claim to privacy has not yet been recognized or protected by law it cannot, at least in a technical legal sense, be called a "right."

interferences with privacy will be delineated just as hosts of similar conflicts have been resolved in the past.

Although the claim to private personality has yet to reach its destined stature in our law,⁷ it has become a moral imperative of our times. Reflecting the ethical values of our civilization, it flows, as do most of our values, from our concept of the essential dignity and worth of the individual. In discussing this concept in 1958, Pope Pius XII made the following perceptive observations:

There is a large portion of his inner world which the person discloses to a few confidential friends and shields against the intrusion of others. Certain [other] matters are kept secret at any price and in regard to anyone. Finally, there are other matters which the person is unable to consider.⁸

Pope Pius then concluded:

And just as it is illicit to appropriate another's goods or to make an attempt on his bodily integrity, without his consent, so it is not permissible to enter into his inner domain against his will, whatever is the technique or method used.⁹

While Pope Pius' ethics and logic seem persuasive, it is nonetheless a fact that the protections afforded private personality are not yet comparable to those granted private property.

The rules for the protection of private property—whether in ideas, creative works, goods or real estate—have over many decades received extensive legislative and judicial attention. These rules are imbedded in the common law and they have often been elaborately developed, as in our systems of copyright and patent law. Moreover, the manner of the taking of private property for a paramount public purpose has been a matter of intense and continuing national concern. Early evidence of the reverence with which private property has been viewed is found in the constitutional provisions against “unreasonable searches and seizures,”¹⁰ against the quartering of soldiers “in any house without the consent of the Owner,”¹¹ against the deprivation of property without due process of law, and against the taking of “private property . . . for public use, without just compensation.”¹² These

7. By contrast with American legal development, it has been said that “. . . the trend in the foreign legislation is towards an outspoken protection of the rights of personality. We find the expression of this common concern in the Civil Code of Liechtenstein (1926), in the Italian (1942) and Greek (1946) codes, in the reformed Japanese code (1948) and the recent Egyptian and Philippine codes, and in a project of law in the German Federal Republic.” Janssens, *European Law Includes Rights of Personality*, Va. L. Weekly, April 29, 1965, p. 1. See also Krause, *The Right to Privacy in Germany—Pointers for American Legislation?*, 1965 DUKE L.J. 481.

8. Address to the Congress of the International Association of Applied Psychology, April 10, 1958.

9. *Ibid.*

10. U.S. CONST. amend. IV.

11. U.S. CONST. amend. III.

12. U.S. CONST. amend. V.

constitutional protections have been judicially elaborated over decades of concentrated attention to the proper equilibrium between an identified public need and the claim to private property.

There has been no comparable abundance of legislative or judicial attention to the balance between the public need and the claim to private personality. The application of the first, fourth and fifth amendments of the federal constitution to the claim to private personality is in a very early stage of evolution.¹³ More than thirty states have now recognized some form of a common law right of privacy; four have created at least a limited right by statute.¹⁴ Yet, another four states have rejected the existence of a right of privacy at common law,¹⁵ although the rejection may be more verbal than substantive.¹⁶ Thus, in terms of a sophisticated system of protections for the claim to private personality—protections discriminatingly balanced to permit reasonable interference with privacy in appropriate circumstances—it is clear that our law has not yet matured.

II. THE NATURE OF PRIVACY

What then is this emerging claim to private personality?

Private personality is as complex and many-faceted as human beings themselves, but two principal aspects of the claim to privacy are clear. The one most frequently expressed is the "right to be let alone." This facet of the claim to privacy, first formulated by scholars¹⁷ and repeated by judges,¹⁸ was given widest currency by Justice Brandeis in his magnificent dissent in the *Olmstead* case.¹⁹ But there is another, and obverse, facet of the

13. The law on this issue appears, however, to be in an active phase of transition. See, e.g., Judge Sobel's opinion in *People v. Grossman*, 45 Misc. 2d 557, 257 N.Y.S.2d 266 (1965) and Justice Brennan's dissent in *Lopez v. United States*, 373 U.S. 427, 446 (1963). See also the new constitutional right of privacy announced by Justice Douglas in *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Massiah v. United States*, 377 U.S. 201 (1964) (sixth amendment held to have been violated when an eavesdropping device was used to elicit information from a defendant in the absence of counsel).

14. See, e.g., the listing in Prosser, *Privacy*, 48 CALIF. L. REV. 383, 386-89 (1960). For a better analysis, see Bloustein, *Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser*, 39 N.Y.U.L. REV. 962 (1964). See also *Hamberger v. Eastman*, 206 A.2d 239 (N.H. 1964); *Truxes v. Kenco Enterprises, Inc.*, 119 N.W.2d 914 (S.D. 1963).

15. See Prosser, *supra* note 14.

16. In New York, for example, where the common law right to privacy is thought not to exist, the same result may be reached by more tortuous routes—e.g., actions for libel, slander, trespass, or unfair labor practice, or the common-law remedy to safeguard mental tranquility from the intentional infliction of distress. See *Battalla v. State*, 10 N.Y.2d 237, 176 N.E.2d 729, 219 N.Y.S.2d 34 (1961); *Scheman v. Schlein*, 35 Misc. 2d 581, 231 N.Y.S.2d 548 (Sup. Ct. N.Y. Co. 1962). See also RESTATEMENT (SECOND), TORTS § 46 (1965), and especially the caveat and comment thereon. Consider also the possibility of basing civil remedies on criminal statutes such as N.Y. PEN. LAW § 738 (eavesdropping) or § 834 (holding a person up to ridicule). See RESTATEMENT (SECOND), TORTS § 286; see also *Reitmaster v. Reitmaster*, 162 F.2d 691 (2d Cir. 1947).

17. See COOLEY, TORTS 29 (2d ed. 1888).

18. See, e.g., *Roberson v. Rochester Folding Box Co.*, 171 N.Y. 538, 544, 64 N.E. 442, 443 (1902).

19. *Olmstead v. United States*, 277 U.S. 438, 478 (1927). See also Warren & Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890).

claim to privacy which has yet to receive equal attention: it is the right to share and to communicate.²⁰

Each and every one of us is well aware of this complicated, ambivalent personal need to communicate and, the correlative need, even while communicating, to hold back some area, at least for the moment, for ourselves. Our personal experience is supported by the behavioral scientists. They have documented our need both to share and to withhold.²¹

We need to share in order to feel a useful part of the world in which we live; we need to share in order to test what we truly believe, to obtain the feedback from others which will shape our thoughts, support our egos, and reduce our anxiety. Communication is a form of nourishment, essential to growth and, indeed, to survival. In fact, we are told that if an individual is deprived of all sensory intake and thus isolated from all meaningful association with his environment, he promptly becomes thoroughly disoriented as a person.

Yet, as human beings we also need to withhold—and this for a variety of reasons. There are some things we cannot face and therefore suppress. There are other facts or fears that, although not suppressed, we neither prefer to know nor wish to discuss. Then, too, there are ideas or beliefs or behavior that we are not sure we understand or, even if we do, fear that the world may not. So to protect ourselves, or our processes of creativity, or our minority views, or our self-respect, all of us seek to withhold at least certain things from certain people at certain times.

Psychologically, then, privacy is a two-way street consisting not only of what we need to exclude from or admit into our own thoughts or behavior, but also of what we need to communicate to, or keep from, others. Both of these conflicting needs, in mutually supportive interaction are essential to the well-being of individuals and institutions, and any definition of privacy, or of private personality, must reflect this plastic duality: sharing and concealment.

It follows that the right of privacy does not deal with some fixed area of personal life that has been immutably ordained by either law, or divinity, or science, or culture, to be off-limits and private.²² The essence of privacy is no more, and certainly no less, than the freedom of the individual to pick and choose for himself the time and circumstances under which, and most importantly, the extent to which, his attitudes, beliefs, behavior and opinions are to be shared with or withheld from others. The right to privacy is, there-

20. See Shils, *supra* note 1, at 156.

21. On the importance of individual (and collective) secrecy in social relationships, see *THE SOCIOLOGY OF GEORG SIMMEL* 307-44 (Wolff ed. 1950).

22. Yet, it is to be expected that particular cultures will, from time to time, reach a consensus on definable areas that are deemed to be private. Such a consensus is likely, however, to be both temporary and limited.

fore, a positive claim to a status of personal dignity—a claim for freedom, if you will, but freedom of a very special kind.

The way in which the choice between disclosure and non-disclosure is exercised, and the extent to which it is exercised, will vary with each individual, and with each institution. Indeed, the choice will vary in the same individual from day to day, and even on the same day, in differing circumstances. Thus, flexibility and variety are faithful companions of the concept of privacy.

III. THE SCIENTIFIC CHALLENGE

The claim to privacy will always be embattled—its collision with the community's need to know is classic and continuous. Man has always lived in a community, and the community has always required some forfeiture of freedom, including that of privacy. It is, indeed, a fact of life that there has never been a condition of complete privacy for the individual insofar as he is a normal man living with other men. At one time or another, privacy has yielded—as it must—to the positive group needs for security, for order, for sustenance, for survival. The degree of privacy granted throughout history to an individual by one or another community has varied markedly with the nature of the political system, the economic level, the population density, and the characteristics of the environment.

It should also be recognized that not every threat to private personality is a matter of sufficient concern to warrant social protection. Similarly, not every technical trespass is serious enough to warrant social redress. The test is always this: is the threat or the invasion unreasonable, or intolerable?

Today, there are those who point an accusing finger at science and argue that science now poses an unprecedented and grievous threat to the privacy of personality.²³ The argument, while clearly exaggerated, is not implausible. Modern acoustics, optics, medicine and electronics have exploded most of our normal assumptions as to the circumstances under which our speech, beliefs and behavior are safe from disclosure, and these developments seem to have outflanked the concepts of property and physical intrusion, and presumed consent—concepts which have been relied on by the law to maintain the balance between the private personality and the public need. The miniaturized microphone and tape recorder, the one-way mirror, the sophisticated personality test, the computer with its enormous capacity for the storage and retrieval of information about individuals and groups, the behavior-controlling drugs, the miniature camera, the polygraph, the directional microphone (the “big ear”), hypnosis, infra-red photography—all of these, and more, exist today.

All of these significant advances are capable of use in ways that can frustrate an individual's freedom to choose not only what shall be disclosed or

23. See, e.g., PACKARD, *THE NAKED SOCIETY* 5 (1964).

withheld about himself, but also his choice as to when, to whom and the extent to which such disclosure shall be made. Notwithstanding the large contribution made by each of these scientific developments to the well-being of man, each is, quite clearly, capable of abuse in its application. And such abuse can occur in industry,²⁴ in commerce,²⁵ in the law and by law enforcement agencies,²⁶ in medicine,²⁷ in government,²⁸ and in a myriad of other fields.²⁹

24. (a) For example in personnel selection or retention, compare *Town & Country Food Co.*, 39 Lab. Arb. 332 (1962), with *McCain v. Sheridan*, 160 Cal. App. 2d 174, 324 P.2d 923 (1958) (refusal of employees to take "lie detector" tests). Several state statutes prohibit employers from making certain uses of lie detector tests. See, e.g., ALASKA STAT. § 23.10.037 (Supp. 1965); CAL. LABOR CODE § 432.2; MASS. ANN. LAWS ch. 149, § 19B (Supp. 1963); ORE. REV. STAT. § 659.225 (1963); R.I. GEN. LAWS ANN. § 28-6.1-1 (Supp. 1964). In New York, bills to preclude the use of lie detectors as a condition of initial or continued employment are introduced in the Legislature with regularity. In the 1965 session, seven such bills were introduced, see 1965 N.Y. LEG. RECORD & INDEX 1337, and two, after reaching the Governor, were vetoed for "technical defects." See N.Y. Assembly Bill Print No. 4439, passed June 7, 1965, vetoed June 28, 1965 (1965 N.Y. LEG. RECORD & INDEX 865); N.Y. Sen. Bill Print No. 279, passed April 27, 1965, vetoed May 24, 1965 (1965 N.Y. LEG. RECORD & INDEX 29). See also 111 CONG. REC. 15378 (daily ed. July 8, 1965) (a resolution of the Communications Workers of America on invasions of privacy).

(b) For examples, in labor relations, compare *Chesapeake & Potomac Tel. Co.*, 98 N.L.R.B. 1122 (1952) (monitoring an employee's home telephone), with *Eico Inc.*, 44 Lab. Arb. 563 (1965) (television surveillance of production floor) and *Thomas v. General Elec. Co.*, 207 F. Supp. 792 (W.D. Ky. 1962) (in-plant movies for time, motion and safety studies). See also N.Y. LAB. LAW § 704.

25. See *McDaniel v. Atlanta Coca-Cola Bottling Co.*, 60 Ga. App. 92, 2 S.E.2d 810 (1939) (use of eavesdropping device to obtain evidence for defense of civil action); *Schmukler v. Ohio-Bell Tel. Co.*, 66 Ohio L. Abs. 213, 116 N.E.2d 819 (Ohio C.P. 1953) (use of telephone monitoring to ascertain breach of contract). For the statutes of those states making at least some form of eavesdropping a crime, see note 65 *infra*. For a discussion of some of the ethical issues in personality testing in business, see CRONBACH, *ESSENTIALS OF PSYCHOLOGICAL TESTING* 459-62 (2d ed. 1960).

26. (a) For examples in the practice of law, see *Matter of Wittner*, 264 App. Div. 576, 35 N.Y.S.2d 773 (1st Dep't 1942), *aff'd per curiam*, 291 N.Y. 574, 50 N.E.2d 660 (1943) (lawyer suspended from practice for surreptitious use of recording device). The Committee on Professional Ethics of the Association of the Bar of the City of New York has concluded that the use of recording devices by lawyers, without the consent of the person whose conversation is being recorded, violates the Canons of Ethics. See, e.g., *Opinions* Nos. 832, 836, 13 N.Y.C.B.A. RECORD 36, 568 (1958); No. 813, 11 N.Y.C.B.A. RECORD 207 (1956).

(b) In law enforcement: see DASH, *THE EAVESDROPPERS* (1959); *Symposium*, 44 MINN. L. REV. 811 (1960). See also N.Y. Times, July 14, 1965, p. 1, col. 3 (use of two-way mirrors and other eavesdropping devices by Internal Revenue Service).

27. (a) In medical research: see Lewis, *Restrictions on the Use of Drugs, Animals and Persons in Research* (paper delivered at the Rockefeller Institute Conference on Law and the Social Role of Science, April 8, 1965).

(b) In medical practice: see Rheingold, *Products Liability—The Ethical Drug Manufacturer's Liability*, 18 RUTGERS L. REV. 947, 957, 1009 (1964).

28. See STAFF OF HOUSE COMM. ON GOV'T OPERATIONS, *USE OF POLYGRAPHS BY THE FEDERAL GOVERNMENT* (Preliminary Study 1964), 88TH CONG., 2D SESS. (Comm. Print 1964); House Comm. on Post Office and Civil Service, *Use of Electronic Data Processing Equipment in the Federal Government*, H.R. REP. NO. 858, 88TH CONG., 1ST SESS. (1963); *Hearings Before the House Comm. on Post Office and Civil Service, Confidentiality of Census Reports*, 87th Cong., 2d Sess. (1962); cf. *United States v. Rickenbacker*, 309 F.2d 462 (2d Cir. 1962), *cert. denied*, 371 U.S. 962 (1963).

29. (a) In newsgathering: see the charge of Alex Rose that a *New York Herald Tribune* reporter had rented an adjoining hotel room to eavesdrop on a political meeting. N.Y. Times, June 20, 1965, § 1, p. 46, col. 1.

(b) In public safety: consider the number of apartments, office buildings, hospitals, laboratories, jails, and other public buildings that have electronic systems to cover en-

So may abuse be found in the area with which we are primarily concerned—scientific research. The one-way mirror is a common fixture in facilities designed for bio-medical and behavioral research. Personality and ability tests are as familiar to researchers in these fields as a stethoscope is to the family doctor. The computer and electronic data storage and retrieval have become crucial to the intelligent and efficient use of research data. Socio-active and psycho-active drugs are ever more tempting research tools, as are the concealed camera and the hidden microphone. When these and other scientific and technological advances are used by scientists, they are used by highly trained, well-motivated, professional people for a social purpose on which the community places a high value. But this fact by itself, obviously, does not warrant the invasion of private personality any more than it would warrant the taking of private property or the administration of live cancer cells to a non-consenting patient.³⁰

The recent advances in science have made it clear that society must now work out some reasonable rules for the protection of private personality. It is, perhaps, becoming imperative now to define how the interests of the community—whether in scientific research or law enforcement or economic growth—can be accommodated with the need for privacy. The necessity for such an accommodation poses no idle problem. The consequences of the failure to resolve it are predictable: they begin with the recoil and revulsion of the community;³¹ they conclude with arbitrary legislation.

There is no doubt as to the community reaction to the administration, even in the name of research, of live cancer cells to unwitting patients. Nor should we expect that the community will be any more tolerant of behavioral research that subjects non-consenting persons to the risk of injurious, though non-fatal, after-effects. Indeed, community sensitivity as to what is reasonable,

trances, elevators, reception rooms, conference rooms, corridors and tellers' windows with television cameras or sound monitoring and recording systems; also the FAA rule on the installation of voice recorders in the cockpits of large airplanes as proposed, 28 Fed. Reg. 13786 (1963). For the regulation as enacted, see 29 Fed. Reg. 19209 (1964).

(c) In education: see authorities cited in notes 31, 37 *infra*, for some aspects of the use of personality tests in schools; consider also the two-way communication system that enables a school principal to speak directly to a class or, at his choice, to monitor, unobserved and unannounced, the classroom proceedings.

(d) In social welfare: see Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues*, 74 YALE L.J. 1245, 1254 (1965); Sokol, *Due Process in the Protection of Adults and Children* (paper presented Sept. 11, 1964, at the Northeast Regional Conference of the American Public Welfare Association).

(e) In entertainment: consider the television programs which have used hidden cameras to photograph unsuspecting subjects; see N.Y. PEN. LAW § 834 dealing with exhibitions, and particularly the prohibition of "any act . . . whereby any . . . citizen . . . is held up to contempt or ridicule."

30. See *Matter of Hyman v. Jewish Chronic Disease Hosp.*, 15 N.Y.2d 317, 206 N.E.2d 338, 258 N.Y.S.2d 397 (1965). See also, Carley, *Research and Ethics*, Wall Street Journal, June 10, 1965, p. 1, col. 1; N.Y. Times, March 20, 1965, p. 56, col. 1.

31. See Eron & Walder, *Test Burning II*, 16 AMERICAN PSYCHOLOGIST 237-44 (1961); Nettler, *Test Burning in Texas*, 14 AMERICAN PSYCHOLOGIST 682-83 (1959).

or tolerable, is not limited to situations where physical or psychic injury may be involved.

While neither the most representative nor serious intrusion, a well known example of privacy invasion in the field of behavioral research is the so-called "jury bugging" experiment conducted by the University of Chicago. Financed by the Ford Foundation, this was a scientific inquiry conceived and carried out with the best of professional motivation and skill. Although the consent, in advance, of the court and of opposing counsel was obtained, the surreptitious probing of the individual and institutional³² privacy of the members of the jury shocked the community when the experiment became public knowledge in October, 1955. Federal and state statutes were promptly passed, in 1956 and 1957, to ban all attempts to record or observe the proceedings of a jury.³³ The New York statute, for example, reads as follows:

A person:

... who, not a member of a jury, records or listens to by means of instrument the deliberations of such jury or who aids, authorizes, employs, procures, or permits another to do so; is guilty of eavesdropping.³⁴

And in New York eavesdropping is a felony punishable by imprisonment!³⁵

32. Although this article is concerned with individual privacy, the claim to institutional and collective (or group) privacy should be noted. Institutional privacy is more than the sum of the claims to privacy of the members of a particular institution. For example, even had each of the members of the jury in the University of Chicago experiment consented to the recording of the jury room proceedings, the tone of the public response indicates that such recording would still have been viewed as tampering with a sacred institution and, therefore, offensive. See Shils, *supra* note 1, at 132-39. The individual claim to privacy is plainly paralleled by the institutional claim, and both are rooted in the need of an organism to learn and grow by quiet trial and error (sometimes called practice) without loss of dignity or public accountability, or risk of punishment. Both involve the concepts of consent and confidentiality discussed later in this article. But the conditions under which the claim may be asserted—by private institutions as well as public—and the determination of who may consent (if the judge cannot consent for the jury, can the President consent to the disclosure of his cabinet discussions?) raise the privacy issues in a different context worthy of separate analysis. The public accountability of institutions (both government and private) must be weighed and balanced with the institutional need for privacy to maintain their effectiveness and integrity. This is well appreciated by all who are responsible for the destiny of an institution and who have dealt, for example, with journalists' inquiries, congressional investigations, government questionnaires, judicial subpoenas, FBI interviews or stockholders' demands. A recent illustration of a lack of sensitivity to this claim of institutions for privacy is afforded by a bill introduced in the New York State Senate on March 9, 1965 (Senate Print 2832, Intro. 2691) which would have declared "all books . . . bills, vouchers, checks, contracts or other papers connected with or used or filed in the office of every authority or commission . . . or with any officer acting for or on its behalf . . . public records . . . open to public inspection at all times . . ." (Emphasis added.)

33. 18 U.S.C. § 1508 (1964); see, e.g., MASS. ANN. LAWS ch. 272, § 99A (Supp. 1964).

34. N.Y. PEN. LAW § 738. The new penal law, effective Sept. 1, 1967, replaced Section 738 with a general provision prohibiting "wiretapping or mechanical overhearing of a conversation." N.Y. Sess. Laws 1965, ch. 1030, § 250.05. The memory of the Chicago experiment lingers on. See the anti-eavesdropping bill introduced in the Minnesota Legislature on March 4, 1965, S.F. No. 915, § 2(d) (Phillips Legislative Service).

35. N.Y. PEN. LAW § 740. The new penal law makes no substantial change in this provision. N.Y. Sess. Laws 1965, ch. 1030, § 250.05.

Another example where neither physical injury nor emotional trauma is necessarily involved is found in personality testing.³⁶ It requires no Cassandra to predict lawsuits by parents, and a spate of restrictive legislation,³⁷ if those who administer these tests in schools—even for the most legitimate of scientific purposes—do not show a sensitive appreciation for both individual and group claims to a private personality.

The lesson is plain. Unless the advances of science are used with discrimination by scientists engaged in behavioral research—as well as by other professions, by industry and by government—the constructive and productive uses of these advances may be drastically and unnecessarily restricted by a fearful community.³⁸

IV. THE NEED FOR EQUILIBRIUM

Obviously, as Samuel Messick wrote recently:

Absolute rules forbidding the use of [personality tests] . . . because they delve into contents beyond the bounds of decent inquiry would be an intolerable limitation both to scientific freedom and to professional freedom.³⁹

It should be equally obvious—yet it may not be⁴⁰—that absolute rules permitting professional license, in the name of scientific research, to probe beyond

36. Lee J. Cronbach, one of the nation's outstanding authorities on psychological testing, in his book, *Essentials of Psychological Testing* (2d ed. 1960) observes:

Any test is an invasion of privacy for the subject who does not wish to reveal himself to the psychologist. While this problem may be encountered in testing knowledge and intelligence of persons who have left school, the personality test is much more often regarded as a violation of the subject's rights. Every man has two personalities: the role he plays in his social interactions and his "true self". In a culture where open expression of emotion is discouraged and a taboo is placed on aggressive feelings, for example, there is certain to be some discrepancy between these two personalities. The personality test obtains its most significant information by probing deeply into feelings and attitudes which the individual normally conceals. One test purports to assess whether an adolescent boy resents authority. Another tries to determine whether a mother really loves her child. A third has a score indicating the strength of sexual needs. These, and virtually all measures of personality, seek information on areas which the subject has every reason to regard as private, in normal social intercourse. He is willing to admit the psychologist into these private areas only if he sees the relevance of the questions to the attainment of his goals in working with the psychologist. The psychologist is not "invading privacy" where he is freely admitted and where he has a genuine need for the information obtained.

Id. at 459-60.

37. See S. REP. No. 553, 88th Cong., 1st Sess. 41 (1963) for the legislative proposal (H.R. 4955) of Representative Ashbrook of Ohio. In New York, Assemblyman Russo introduced a bill in 1964 (A.I. 1701) to preclude the testing of a school child without the consent of a parent or guardian.

38. In addition to the restrictions that may be imposed on the uses of science and technology, there should also be considered the prospect of legal liability for any injury that may be suffered from their use. See Rheingold, *supra* note 27; Comment, *Legal Implications of Psychological Research with Human Subjects*, 1960 DUKE L.J. 265. See also note 65 *infra* for statutes which make eavesdropping—including eavesdropping by behavioral scientists in the course of research—a crime.

39. Messick, *Personality Measurement and the Ethics of Assessment*, 20 AMERICAN PSYCHOLOGIST 136, 140 (1965).

40. See a not unrelated discussion in WEST, *THE NEW MEANING OF TREASON* 158-61 (1965).

the bounds of decent inquiry are equally intolerable to a free society and to free men. Absolute rules do not offer useful solutions to conflicts in values. What is needed is wisdom and restraint, compromise and tolerance, and as wholesome a respect for the dignity of the individual as the respect accorded the dignity of science.

If discrimination and discernment are in fact brought to bear, then we can be confident that the advances in science and technology pose no intolerable threat to privacy. Indeed, they promise to contribute more to an understanding of the claim to private personality, to the recognition of its proper limits, and to the protection of its creative integrity than anything in our recorded experience. Worthy of note is Dr. Robert Morison's reminder that: ". . . the sciences are providing more accurate ways of describing moral problems, and are actually calling attention to types of moral problems which heretofore have not been recognized."⁴¹

It is not enough to be optimistic about the consequences of the tensions between science and privacy. It is incumbent upon lawyer and scientist to accommodate the goals of science with the claim to privacy, and to help articulate the rules and concepts that will maintain both the productivity of science and the integrity of personality.

In his well-known essay *On Liberty*, John Stuart Mill, while concluding that "over himself, over his own body and mind, the individual is sovereign," continued:

There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.

But though this proposition is not likely to be contested in general terms, the practical question, where to place the limit—how to make the fitting adjustment between individual independence and social control—is a subject on which nearly everything remains to be done Some rules of conduct, therefore, must be imposed, by law in the first place, and by opinion on many things which are not fit subjects for the operation of law. What these rules should be, is the principal question in human affairs; but if we except a few of the most obvious cases, it is one of those in which least progress has been made in resolving.⁴²

Although more than a century has passed since this pessimistic estimate was made, its essential validity remains.

Our purpose is to identify some of the rules of conduct which, by providing balance and sensitive awareness, can in this century accommodate, and perhaps even resolve, the confrontation of the values of privacy with other values. While the focus here is on behavioral research, it should be empha-

41. Morison, *Foundations and Universities*, 93 DAEDALUS 1109, 1137 (1964).

42. MILL, ON LIBERTY 7-8 (Bobbs-Merrill 1956).

sized again, that this clash with the values of privacy is not unique to behavioral research.⁴³ The rules of conduct which can accommodate behavioral research to the claims of private personality may, it is hoped, provide useful parallels in other areas.

V. BEHAVIORAL RESEARCH AND INDIVIDUAL PRIVACY

The traditional methods of behavioral research may, on occasion, involve a violation of the individual claim to private personality.⁴⁴ These traditional research methods can be grouped into three broad types: first, self-descriptions elicited by interviews, questionnaires, and personality tests; secondly, direct observations and recording of individual behavior; and thirdly, descriptions of a person by another serving as an informant, or the use of secondary data such as school, hospital, court or office records.

These three major research methods do not necessarily lead to a violation of the claim to privacy. All may be, and most often are, used under conditions of anonymity or individual consent and with strict control over confidentiality. Nevertheless, each method, if improperly employed, can make serious inroads on personal privacy. Thus, some personality tests induce the subject unwittingly to reveal more about himself than he wishes to; carefully designed questionnaires and interview procedures can be used to trap the individual into making public those facts and feelings about himself or others that he would not wish to disclose. Direct observational methods similarly can involve privacy invasion; as, for example, in the use of one-way glass for the observation of children without their knowledge, or in the use of an unidentified participant observer such as a social scientist pretending to be either a patient in a mental hospital or a member of a minority group, or a drug addict among troubled juveniles. Descriptions of one individual by another, either oral or in the form of written records, can also be used in ways that invade the individual's privacy. Illustrative is information elicited from children about their parents' life together, or the description of husbands by wives, or the use of 'institutional records, originally compiled for one purpose, for quite another. An example of the latter is found when school data are made available to outsiders for research not related to the administration of the educational program. It is the same when welfare data are made available for purposes not connected with the welfare objectives for which they were obtained.

Each of these three basic research methods may engage one or both of the two central—and ethical—issues which are at the core of the relationship between research and personal privacy. These are first, the degree of individ-

43. See notes 24-29 *supra* and accompanying text.

44. They may also involve the invasion of group or institutional privacy. One example is provided by research on minority groups or associations. See note 32 *supra*.

ual consent that exists and, second, the degree of confidentiality that is maintained. The former concerns the conditions under which information is obtained from a person, the latter, the conditions under which the information is used.

Let us consider some of the ways in which these two issues are raised by behavioral research.

In the use of self-description, a privacy issue arises if the individual respondent does not participate willingly, or if he participates without knowledge of the information being elicited from him, or without an understanding of the purposes for which such information will be used. The nature of the private information being yielded can be obscured from the respondent either by direct artifice, by reliance on the respondent's ignorance or his lack of sophistication, or by some form of coercion, employed to enlist his cooperation. Similarly, with direct observations, a privacy issue arises if the examinee does not know he is being observed, or if he is put off by misleading instructions as to the nature or purpose of the observation or the identity of the observer, or if he is an unwitting participant in a deceptively constructed test situation. An examinee, for example, might be the only person not to know that a group of which he is a part is behaving in a planned abnormal manner so as to test his desire to conform. Where informants, or secondary data, are employed, privacy questions can arise in several ways. An inducement to a breach of faith or confidence may be involved; naivete may be purposefully and systematically exploited. Alternatively, the information may have been supplied only because its nature, or the subsequent use to be made of it, were not known to the respondent.

In each of these three research techniques, an additional point of some complexity can be involved: was the privacy-related data obtained originally for a different purpose? For example, we may consent to yielding vital data for the purpose of being admitted to practice law, or society may properly insist on some loss of individual privacy in order to combat disease or other hazards to life or tranquility.⁴⁵ In any such case, however, the individual should not then be deemed to have consented, without qualification, to the subsequent use of such data by a credit agency, or by a member of the school board, or even a scientist engaged in bona fide research.⁴⁶

Lawyers are persuaded that they must not talk about their clients' affairs. While this is now a matter of professional ethics, this restraint is rooted in a recognition that any other state of affairs would corrode the trust which is

45. The Public Health Law of New York, for example, requires physicians, and others, to report communicable diseases to the local health officer (§ 2101), permits health officers to seek court orders to compel persons to be examined for venereal diseases (§ 2301), and requires vaccination of school children for smallpox (§ 2130).

46. The New York statute, for example, contains provisions designed to preserve the confidentiality of the private information obtained about the venereal diseases with which a person may be infected. See N.Y. PUB. HEALTH LAW § 2306.

of the very essence of the professional relationship. The effectiveness of the doctor, plainly, is similarly vulnerable if patients ever believed they could not rely on their physicians to respect imparted confidences. In quite another area: what would happen to the process of education if student attitudes, as revealed in the Socratic interchanges of the classroom, were recorded and reported by the teacher and then used for scientific research or for other purposes—such as responding to inquiries by potential employers?

The point, then, is that consent and confidentiality have a pragmatic as well as a moral importance to the pursuit of any profession. The quality and effectiveness of behavioral research will depend, accordingly, on the confidence the public has in the behavioral scientists and in the way they pursue their science.⁴⁷

VI. THE CONCEPT OF CONSENT

The essence of the claim to privacy is the choice of the individual as to what he shall disclose or withhold, and when he shall do so. Accordingly, the essential privacy-respecting ethic for behavioral research must revolve around the concept of consent.⁴⁸ Taken literally, the concept of consent would require that behavioral research refuse to engage in the probing of personality, attitudes, opinions, beliefs, or behavior without the fully informed consent, freely given, of the individual person being examined. There are, however, several reasons why the concept of consent cannot be so literally invoked in the name of privacy.

In the first place, a rigid and literal insistence on formal consent, in a research context, can readily become unrealistic. In some instances, insistence on consent would shake the validity of the research itself. The very selectivity involved in consent would ensure that the research was based on a biased sample and therefore could not be generalized to a wider population. And where subtle attitudes are being measured, knowledge of, and consent to, what is being sought is almost certain to distort the results. In other instances, the requirement of consent might frustrate the project at the outset.⁴⁹ Finally, in many instances a full appreciation of the nature of the research, the purposes to be achieved and the risks involved would be impossible to convey fully, either because of their essential complexity, or because they involve

47. See Gross, *Social Science Techniques: a Problem of Power and Responsibility*, 83 THE SCIENTIFIC MONTHLY 242 (1956); Mead, *The Human Study of Human Beings*, 133 SCIENCE 163 (1961).

48. The tribunal in the Nuremberg trials considered at some length the circumstances under which medical research conducted with human beings would conform to the ethics of the medical profession. It evolved ten basic principles that "all agree . . . must be observed in order to satisfy moral, ethical and legal concepts." The first of these ten Nuremberg commandments was that: "The voluntary consent of the human subject is absolutely essential." II TRIALS OF WAR CRIMINALS BEFORE THE NUREMBERG MILITARY TRIBUNALS UNDER CONTROL COUNCIL LAW NO. 10, THE MEDICAL CASE (United States v. Brandt) 181 (U.S. Gov't Printing Office 1949). See generally Lewis, *supra* note 27.

49. How many people, for example, could be expected to participate willingly in a test to devise a standard of homosexual tendencies? Or to measure intra-family hostility?

unknown factors, or because they are beyond the capacity of the subject to understand.

Any application of the concept of consent as a privacy-protecting test for scientific research is further complicated by the difficult factual problem of assessing, in each particular case, what constitutes consent. When is it informed; when is it freely given; who is entitled to give it? In research situations consent may be given by tacit acquiescence, by explicit oral avowal, by written statement, or it may be implied from the totality of the circumstances. While each of these methods of consent can raise troublesome issues, implied consent is by far the most difficult.

Obviously, in many situations, consent can be fairly implied. Certainly, public figures, particularly those who appeal to the public for elective office, have impliedly consented to the yielding up of some areas of private personality. The comings and goings of a Mayor or Governor, or Hollywood starlet, and a public evaluation and discussion of their strengths and weaknesses in their public roles, are proper subjects of news report, analysis, and research. Similarly when a client seeks occupational counseling from a psychologist, or a parent seeks educational guidance for his child, or when a patient seeks psychotherapy, he has consented to some probing, and revelation, of his private personality.⁵⁰ While the combination of circumstances that will warrant the implication of informed consent are myriad, restraint must be exercised not to imply such consent in the absence of reasonably compelling facts. Otherwise, the whole requirement of consent can too readily be rationalized away through implication.

Moreover, consent to the revelation of private personality for one purpose, or under one set of circumstances, is not license to publish or use the information so obtained for different purposes or under different conditions. This is especially so when the operative consent is implied or when it would be reasonable to assume that the initial consent would not have been given for the new purpose or the different situation. Further, varying degrees of consent must be recognized. Consent, however given, may be restricted in numerous ways—as to the methods to be used, the risks to be taken, the degree of information the subject wishes to give or receive, the type of data to be obtained, or the uses to which it may be put.

Another complicating factor in the concept of consent is the determination of whether consent has been freely given or coerced. Torture is an old and well-tried technique for extracting private information—and torture need not be physical. Mental anguish can be just as searing and difficult to endure. The prospect of release from suffering, therefore, is a powerful lever for access to the private area. Its uses for the manipulation of behavior or

50. See CRONBACH, *op. cit. supra* note 25, at 459-62.

the probing for knowledge are not unknown to sheriffs and prosecutors, to personnel directors, school teachers, and parents—indeed, to virtually anyone who has experienced authority. Conversely, its uses are very well known by the jobless, the hungry, the homeless, the ambitious and the young. The obvious cases of physical, mental, economic, or social duress are readily identifiable; but when does a subtle inducement such as the regard of your boss or even of your peers, or some inducement, not quite so subtle, such as an extra point added to your college grade in return for participation in psychological experiments—when do these become tantamount to duress? What about the vast prestige of scientific research itself as a means of persuasion upon the unsophisticated? And when does the relative disproportion between the knowledge, sophistication and talents of the investigator and his subject make the consent of the respondent questionable, however freely and explicitly given? It is all too apparent that the distinction between consent and concealed coercion may often be difficult to establish. This is, however, the type of distinction with which our social institutions, in particular our law and our courts, have a demonstrated competence to deal.

As compared with the complexities of coercion, the problem of identifying the person whose consent must be obtained can, in most cases, be more readily resolved. Normally, when a competent adult is the examinee, or the subject of research, he is the person whose consent must be obtained. If he is not an adult, or if he is not legally competent, then the consent must be obtained from the person legally responsible, namely, a guardian or parent. In the case of children, however, while the legal principles may be clear, a lingering ethical question remains. Should not a child, even before the age of full legal responsibility, be accorded the dignity of a private personality? Considerations of healthy personal growth, buttressed with reasons of ethics, seem to command that this be done. If so, then, in the case of adolescents (and probably even earlier), some form of prior consent to privacy probing should be obtained from *both* the parent and the respondent child.⁵¹

A special word should be said about anonymity in behavioral research. Frequently it is possible to obtain data of value for behavioral research where the subjects need never be identified by name. National opinion surveys are one example; the use of students in a college classroom may be another. Where anonymity in fact exists, the invasion of privacy involved in behavioral research might well be regarded as *de minimis*. Nevertheless, it must be stressed that anonymity is not a complete substitute for consent.

51. For an interesting commentary on some of the subtle ethical problems involved, see Mace, *Privacy in Danger*, 171 *THE TWENTIETH CENTURY* 173, 176-77 (1962). Compare *State v. Kinderman*, 136 N.W.2d 577 (Minn. 1965), where the court held that an adult home owner could effectively consent to a search of his *adult* child's room notwithstanding the absence of *both* a court warrant and the consent of the adult child. This is another instance of a judicial preoccupation with the concepts of property when the claim to privacy is involved. See cases cited note 3 *supra* and accompanying text.

On occasion an individual may feel that his privacy is being invaded when asked to reveal his thoughts or feelings, or to describe his actions, even though he remains quite anonymous to the researcher. It is a fact that many people even under conditions of anonymity resist such revelation to others. So it would seem that, wherever possible, both consent and anonymity should be sought in behavioral research.

The condition of anonymity sometimes is used as a justification for the invasion of privacy in psychological experiments where the subject is deceived as to the meaning of the experiment, or where false information is given to the person so as experimentally to arouse or decrease self-esteem, motivation, or other similar feelings. That the subject remains anonymous, however, can not justify the failure to obtain his consent prior to any such purposeful manipulation of his personality.⁵²

Behavioral scientists need no reminder that the concept of consent is not now universally operative as a condition of the research projects on which they are engaged. The use of human guinea pigs is not confined to prisons. Examples of "forced" submission to privacy probes can be found in our hospitals, our schools, our colleges, our social welfare programs, our research institutes, and our institutions for the disturbed, handicapped, or retarded. Such a disregard for the dignity of personality—occasional though it may be—must be guarded against and eliminated by the social scientists themselves.⁵³ If they fail or refuse to exercise self-control, then the community will inevitably feel compelled to act for itself and legislate for the protection of personal privacy.

While the knowledgeable, freely-given consent of a participant should be a basic ground rule for all behavioral research, there is, of course, a need for exceptions. There must be, indeed, a fundamental exception to cover the many instances where society will accept the invasion of privacy as permissible and reasonable. Thus, when the general welfare requires it and due process is

52. It is apparent that this view is not yet fully shared by the behavioral scientists. For example, Dr. Lee J. Cronbach, who has given thoughtful consideration to the problems of ethics in psychological testing, and who sensitively perceives the ethical issues involved in the use of psychological tests in other contexts, with respect to scientific research, has stated:

No ethical objection can be raised to the use of subtle techniques and even of misleading instructions when the information so obtained will be used entirely for research purposes, the subject's identity being concealed in any report.

Cronbach, *op. cit. supra* note 25, at 461. Even for research purposes, however, Cronbach raises a caution where the investigator occupies a position of authority over the person being tested. *Id.* at 462.

53. An excellent example of a responsible attitude toward behavioral research in schools is to be found in Kohn & Beker, *Special Methodological Considerations in Conducting Field Research in a School Setting*, 1 *PSYCHOLOGY IN THE SCHOOLS* 31 (1964). See also Castaneda & Fahel, *The Relationship between the Psychological Investigator and the Public Schools*, 16 *AMERICAN PSYCHOLOGIST* 201-03 (1961). While neither of these articles deals with the claim to privacy as such, Messrs. Kohn and Beker show a lively appreciation of it, and recognize the importance of consent, anonymity and confidentiality in, and for, behavioral research.

observed, our society permits the taking of private property without consent. There is no reason to doubt that, under similar circumstances, society will permit at least a limited invasion, or taking, of private personality. Circumstances under which the community tolerates the probing into private areas without the consent, and if necessary, without the knowledge of the examinee do, in fact, exist. A number of examples can be easily found in law enforcement, in selection for military service, in social welfare work, in the protection of the public health, in the national census, and in the selection of employees for the Central Intelligence Agency or as airline pilots.

A public trial may also invade the privacy of the individuals involved in the litigation. Yet since our society is persuaded that a public hearing is essential to a fair trial and to social order, it finds entirely reasonable that the individual claim to privacy must yield in this instance. Even here, however, the equilibrium between the competing values is sensitively preserved and there are occasions when the court is cleared, or the testimony sealed.⁵⁴

Even where the public interest may warrant the taking of private property or of private personality, no absolute license is justified. The taking should be reasonable, it should be conducted with due process, and it should be limited to no more than what is necessary for the fulfillment of the public purpose which, in fact, warranted the invasion.

If we apply these principles to behavioral research, it is clear that, in determining whether the interference with the right of private personality is reasonable, one must appraise many diverse factors. They include such matters as whether the research is necessary, or simply desirable; whether the identification of the individual is in fact required for the successful conduct of the research; whether the invasion of privacy is being limited to the narrowest extent possible; whether artifice and the risk of physical or psychological

54. Examples of the range of protections available in the judicial process are:

(a) Court orders to protect confidential information obtained for evidentiary purposes from being improperly used for other purposes. See *Covey Oil Co. v. Continental Oil Co.*, 340 F.2d 993 (10th Cir. 1965), *cert. denied*, 380 U.S. 964 (1965); *United States v. Lever Brothers Co.*, 193 F. Supp. 254 (S.D.N.Y. 1961), *appeal dismissed*, 371 U.S. 207 (1962), *cert. denied*, 371 U.S. 932 (1962). See also N.Y. CPLR § 3103 (preventing the abuse of pre-trial disclosure proceedings).

(b) Statutory provisions relating to the disposition of the evidence submitted to the Tax Court, see INT. REV. CODE OF 1954, § 746; or the reception of certain evidence by the Civil Rights Commission. See Civil Rights Act of 1957, 102(g), as amended, 78 Stat. 249 (1964), 42 U.S.C. § 1975a(e) (1964).

(c) Statutory provisions for the sealing of records in judicial proceedings and limiting access thereto. See N.Y. DOM. REL. LAW §§ 114 (adoption), 235 (matrimonial actions); N.Y. FAMILY CT. ACT § 166 (privacy of records); N.Y. SOC. WELFARE LAW §§ 372(4) (records as to children), 132, 136 (welfare records).

(d) Statutory provisions for the exclusion of the public from court proceedings. See N.Y. JUDICIARY LAW § 4; N.Y. FAMILY CT. ACT § 531 (paternity proceedings).

(e) Statutory provisions restricting the availability of information obtained by the Department of Justice under a Civil Investigative Demand, see Antitrust Civil Process Act § 4(c), 76 Stat. 550 (1962), 15 U.S.C. § 1313(c) (1964), or obtained by the Department of Commerce. See 13 U.S.C. § 9 (1964).

(f) Statutory prohibitions against televising or broadcasting of judicial proceedings, such as N.Y. CIV. RIGHTS LAW § 52.

injury are being avoided; whether the research is being conducted by trained professionals under controlled conditions; whether the paramount public interest favors the research at the risk of a reduction in individual privacy; and whether the paramount nature of the public interest has been explicitly recognized, or otherwise accepted, by the community in its laws, by its codes, through its political action, or in such other laborious ways as social consensus is reached and expressed in a free society.

The analogy between behavioral research in the public interest and investigative visits by welfare agents administering public assistance is pertinent. So are the words of the Deputy Commissioner of the New York City Department of Welfare:

The fact that public assistance is a statutory right means, therefore, that it is subject to conditions imposed by the Legislature. . . . It means that the Legislature may require that the applicant waive his right to privacy to permit a thorough investigation of his eligibility for public assistance. It means that the applicant must open his home to admit representatives of the Welfare Department to enter and to inquire and to observe. It does not mean, of course, that this permissible and necessary invasion of privacy may go so far as to violate the constitutional right against unreasonable search and seizure. It does not mean that the investigator may enter forcibly and without the consent of the applicant nor does it mean that the investigator may come in the dead of night, but it does mean that the applicant must submit to an investigation and, therefore, to an invasion of privacy which falls short of being unreasonable and that if he refuses to submit and refuses to permit such infringement upon his right of privacy, then he may not exercise his right to receive public assistance. The question, therefore, is wholly one of reasonableness and in this respect there may well be a difference of opinion among people of good will . . . ⁵⁵

A clear and paramount public interest in a particular behavioral research inquiry, in spite of a high cost in human privacy, can no doubt frequently be established. However, the recent emergence of behavioral science knowledge as a potential contribution to human welfare has yet to be matched with an explicitly recognized set of laws or codes or otherwise publicly expressed agreements on the value of different kinds of research. Thus, there are and will be many occasions in which conflict between the individual's claim to privacy and the larger community interest in research for the general good must be resolved—and the method of resolution must be an expression of community consensus.

This concept of consensus is not employed in any formal mechanistic way. In a sense, what is meant is that the issue of paramountcy as between private personality and a particular program of scientific research should not

55. See Sokol, *supra* note 29; see also Coser, *The Sociology of Poverty*, 13 *SOCIAL PROBLEMS* (Oct. 1965).

be left solely to the decision of the research investigator. There should be some strong element of community approbation; the delicate balancing of the colliding values involved should reflect more than a single point of view.

Community consensus can obviously be expressed in laws, judicial decisions, or political constitutions. But it demands no such formal manifestation, and can also be expressed in far more subtle but equally pervasive ways. For example, consensus can be expressed in the values of our peers as they are articulated to us. Consensus can be formed through the stated views of our opinion leaders whether they be leaders in government or industry, in labor, the professions or the clergy. Consensus can also be reflected in the provisions of collective bargaining contracts between labor and management, in the executive orders or instructions issued by Presidents, cabinet officers, personnel directors, and administrators of all kinds.

Yet, most appropriate for scientific research—as it is for all the professions—is the expression of a consensus on values in a published and operative code of ethics. Such a code yields a triple return—it articulates the values involved, uplifts thereby the awareness and standards not only of the profession but the entire community, and can provide a means for disciplining transgressions within the profession.

Thus, in launching any behavioral research project, the investigator should first determine whether voluntary, informed consent, as well as anonymity, can be accommodated with the integrity of the research. If not, the investigator should then ascertain whether the community consensus approves the conduct of the research, under the proposed conditions, without the actual consent and anonymity of the subjects. As a minimum, this means the knowledgeable concurrence of those responsible for both the research project (for example, the financing institution) and for the well being of the subject (as, for example, the administration of the college he attends). The history of public health and medicine in this country, and earlier in Europe, gives many illustrations of the establishment of just such a community consensus on the invasion of privacy for the general welfare.⁵⁶

One may anticipate that, as behavioral science develops and its contributions to society increase, the democratic process may afford to it more occasions of publicly approved invasions of personal privacy.

VII. THE CONCEPT OF CONFIDENTIALITY

Whether private data are collected with consent, or without consent but with society's permission because of the perceived public interest involved, the minimal requirements of privacy seem to call for the retention of the private data in a manner that assures its maximum confidentiality consistent with the

56. See note 45 *supra*.

integrity of the research. Thus, the second privacy issue presented by behavioral research, as it is with all inroads on the private personality, is the issue of confidentiality.

One of the most important ways in which the concept of confidentiality in behavioral research can be served is to seek to design the research so that the responses of the persons providing the data can be anonymous; the design should avoid identifying any individual respondent with a particular response. While this should be possible in all opinion surveys, in many instances the nature of the research will require an ability to identify each respondent with the data elicited from him. This would of course be true in longitudinal studies—as of child growth and development—where respondents must be examined or interviewed a number of times, or in studies of several diverse sets of records which must be matched up to a particular individual.

If full anonymity is not possible in the research design,⁵⁷ then there are several other safeguards which should be stressed to provide some degree of anonymity or confidentiality. The first, needing no more than a passing mention, is the integrity of the behavioral research scientist, which, along with his interest in science, must be assumed as a basic prerequisite. The integrity of the professional scientist will assure both his informants and society at large that he will be responsible and will maintain the confidence of any information given to him by identifiable informants. That there are occasional breaches of professional confidence at this level underscores the significance of putting stress on the responsibility of the investigator both during his professional training and throughout his research career.

Another important safeguard for confidentiality can be provided through control techniques. For example, the identity of the respondent may be coded

57. It should be borne in mind that there are various degrees of anonymity in the gathering of research data, and it may be useful to distinguish between them in balancing the values of particular research with the costs in privacy that may be involved. Dr. Isidor Chein, Professor of Psychology at New York University's Graduate School of Arts and Science, in a letter to the authors making this point, identified, among the possible levels of anonymity, the following six:

(a) the particular subject is never identifiable, not even by the investigator or his agents; (b) the particular subject is temporarily identifiable, but his identity is never ascertained up to and including the point at which the data that he has provided are consolidated in some meaningful and interpretable form; (c) the particular subject is temporarily identifiable and his identity is known up to, but not including, the point at which the data that he has provided are consolidated in some meaningful and interpretable form; (d) the particular subject is temporarily identifiable and can be associated with data that are in themselves meaningful and interpretable, but his identity is not ascertained; (e) the identity of the particular subject is known in conjunction with meaningful and interpretable data, but his identifiability and identity are submerged in the treatment of the data from many subjects and his own data are never scrutinized from the point of view of interpreting or drawing any inferences about him or his behavior; and (f) the identity of the particular subject is known in conjunction with meaningful and interpretable data and these data are scrutinized from the point of view of interpreting some aspect of the individual or his behavior, but his identity is thereafter submerged in the collection of similar processes of interpretation for many subjects.

and separated from his response except for the code number. The code, in turn, may be made accessible only to a few of the most responsible officials, or perhaps, only on two signatures or by the use of double keys. Even as elementary a safeguard as a locked file can make for substantial improvement. Penalties within the profession may also be devised for any breach of the confidentiality which should be of the very essence of professionalism.

Another readily available step is the destruction of research data. At the very least, that part of the data which would identify any individual with any portion of it should be destroyed, and destroyed at the earliest moment it is possible to do so. Today, it is quite rare for an institution or an individual scientist to take what is now viewed as a radical step and destroy data which potentially has value over a longer time span. Indeed, behavioral scientists have strong incentives to retain all original research data.⁵⁸ Such data can provide information of a longitudinal nature about the development of personality or organizations over time, the early childhood antecedents of career success, the degree of change in interest and attitude from one age to another, the effects of marriage upon personality characteristics and other fascinating problems. There are now great repositories of such data in the United States collected about individuals in schools, both secondary and college, and other institutional settings, which have been maintained because of this natural resistance of the research scientist to discard anything of such potential value. Nevertheless, the maintenance and use of this information for purposes other than that originally agreed to, and the threat to confidentiality inherent in its continued maintenance, strongly suggest that the proper course of the person or institution possessing such data is either to obtain the consent of the individual involved to its continued preservation, or to destroy the data, painful as the latter prospect may be.

It should be emphasized that neither the integrity of the scientist nor the technical safeguards of locks and codes can protect research data against a valid subpoena; such data are at present quite clearly subject to subpoena. In the last analysis, therefore, unless our laws are changed to accord a privileged status to privately given research information, confidentiality can be assured only by destruction of the data. The change in the law required to accord a privileged status to research data can be accomplished by statute. Thus, by statute in eighteen states,⁵⁹ a privilege has already been

58. See, e.g., Johnson, *Retain the Original Data!*, 19 AMERICAN PSYCHOLOGIST 350-51 (1964). See also de Mille, *Central Data Storage*, 19 AMERICAN PSYCHOLOGIST 772-73 (1964). The prospect of the use of computers for central recording, storage and retrieval of research data in the behavioral sciences adds a troublesome new dimension to the protection of privacy. Computerized central storage of information would remove what surely has been one of the strongest allies of the claim to privacy—the inefficiency of man and the fallibility of his memory.

59. The eighteen states are: Alabama, ALA. CODE tit. 46, § 297(36) (Supp. 1963); Arkansas, ARK. STAT. ANN. § 72-1516 (1957); California, CAL. BUS. & PROF. CODE § 2904; Colorado, COLO. REV. STAT. ANN. § 154-1-7(8) (1963); Delaware, DEL. CODE

afforded to information received by a psychologist from his client. This statutory privilege does not, however, seem to extend to psychological research.⁶⁰

While statutes may be desirable, they may not always be necessary. A privileged status has been afforded by the common law to communications between husband and wife,⁶¹ and attorney and client;⁶² privilege also inheres in constitutional doctrine—as in the privilege against self-incrimination. Thus, it is conceivable that privilege could be extended by the courts to other situations—perhaps in a persuasive case, where a research scientist was willing to resist a subpoena and risk imprisonment, in order to protect the private research data in his possession. While there is a role for the martyr both in science and in law, privilege should not be viewed as a status symbol for the scientist.⁶³ It should, rather, be a protective shield for his informant. As the law now stands, however, it is apparent that the research scientist who probes in the realm of the private personality, without consent, bears a special and heavy responsibility to the subjects of his research. It is a responsibility for confidentiality which, at present, in the face of a subpoena he may find himself powerless to discharge.

Of crucial importance also to the protection of confidentiality is a sensitivity on the part of the scientist to the limited purpose for which the research data were originally obtained. It is generally accepted that research data should not be published by the investigator with identities of the individual

ANN. tit. 24, § 3534 (Supp. 1964); Georgia, GA. CODE ANN. § 84-3118 (1955); Idaho, IDAHO CODE ANN. § 54-2314 (Supp. 1965); Illinois, ILL. ANN. STAT. ch. 91½, § 406 (Smith-Hurd Supp. 1964); Kentucky, KY. REV. STAT. ANN. § 319.111 (Supp. 1965); Michigan, MICH. COMP. LAWS § 338.1018 (Supp. 1961); Nevada, NEV. REV. STAT. § 48.085 (1963); New Hampshire, N.H. REV. STAT. ANN. § 330-A:19 (Supp. 1963); New Mexico, N.M. STAT. ANN. § 67-30-17 (Supp. 1965); New York, N.Y. EDUC. LAW § 7611; Oregon, ORE. REV. STAT. § 44.040 (1963); Tennessee, TENN. CODE ANN. § 63-1117 (1955); Utah, UTAH CODE ANN. § 58-25-9 (1963); Washington, WASH. REV. CODE § 18.83.110 (1957).

60. A Montana statute does, however, seem to extend a limited privilege to certain types of behavioral research if conducted by a person teaching psychology in a school. The Montana statute reads as follows:

Any person engaged in teaching psychology in any school, or who acting as such is engaged in the study and observation of child mentality, shall not without the consent of the parent or guardian of such child being so taught or observed testify in any civil action as to any information so obtained.

MONT. REV. CODES ANN. § 93-701-4(6) (1964).

61. See generally 8 WIGMORE, EVIDENCE §§ 2332-41 (McNaughten rev. 1961).

62. See, e.g., *Hurlburt v. Hurlburt*, 128 N.Y. 420, 424, 28 N.E. 651, 652 (1891) (dictum). See also Louisell, *Confidentiality, Conformity and Confusion: Privileges in Federal Court Today*, 31 TUL. L. REV. 101 (1956). See generally 8 WIGMORE, *op. cit. supra* note 61, §§ 2290-2329. It is unlikely that testimonial privilege will be judicially extended to situations that do not fully satisfy Dean Wigmore's four conditions for the existence of a privilege: (1) the privileged communication must originate in a confidence that it will not be disclosed, (2) the element of confidentiality must be essential to the relationship of the parties to the communication, (3) the relationship is one which is to be assiduously fostered, and (4) the injury that would inure to the relationship by disclosure of the communication must be greater than the benefit to be gained from its contribution to the disposition of the litigation. *Id.* § 2285.

63. This, nevertheless, seems to be the situation in those eighteen states which accord the privilege only to licensed or registered psychologists. See Geiser & Rheingold, *Psychology and the Legal Process: Testimonial Privileged Communications*, 19 AMERICAN PSYCHOLOGIST 831 (1964).

subjects attached to the data, and there is no reason why this same ethical sense of the confidentiality, or the privacy, of the data cannot be extended to other forms of publication. Thus, it should be part of the responsibility of the research scientist not to make his research data, in which individuals are identifiable, available to others, whether such others be personnel directors, private detectives, police officers, journalists, government agents, or even other scientists.

Assuredly, one can visualize situations in which the release of research data for a use not initially contemplated would, because of the great public interest involved, be socially tolerable. But, just as certainly, it is possible to visualize situations in which it clearly would not. In the latter category, for example, obviously falls the sale of personal information to commercial organizations for subscription or mailing lists.

In determining the proper limits to be placed on the availability of research data, a workable proposition may well be to confine such data to the particular research purpose for which permission was initially obtained, or to a reasonably equivalent purpose. At the least, such a proposition might be accepted as an operative rule in the absence of persuasive considerations to the contrary. Of course, it must be recognized that as an individual may consent to an initial privacy invasion, so may he waive a limitation of that consent to the original research purpose. Care must, however, be taken in such instances not to imply a waiver in situations where it may not have been intended.

As in other affairs, there is, unquestionably, a happy mean between excessive privacy and indecent exposure in behavioral research. One way to begin to establish such a mean is for the behavioral scientists themselves to demonstrate, by codes of ethics and research standards, their own acute sensitivity and concern for the problem. Psychologists have made a start on an enforceable code of ethical standards directed primarily to the client relationship.⁶⁴ Other disciplines can learn from their example and all can extend such codes more broadly to behavioral research.

VIII. AN ETHICAL CODE

From the foregoing there emerges an outline of the contest between the values of privacy and those of behavioral research. The community is sensitive to both values. Our society will support, and indeed, will insist on, a decent accommodation between them. An accommodation which takes into account the ethical and legal obligations of the investigating scientist can be achieved without diminishing the effectiveness of the scientific inquiry. Scientists who are responsive to the claim of privacy will find themselves pressed to develop

64. See *Ethical Standards of Psychologists*, 18 AMERICAN PSYCHOLOGIST 56 (1963).

better and more rational research techniques. Their innate inventiveness can be expected to yield new and better research methods.

Not only will the behavioral scientists be inventive in accommodating the competing values of privacy and research, but in doing so they will be more sensitive to the complexities and nuances involved than either courts or legislatures. To be sure, however, judges and legislators do have a supportive role and can be expected to fill it either by correcting abuses or protecting the responsible investigator who operates in accordance with the ethical consensus of the community.

The supportive measures available to the law, several of which have already been mentioned, are numerous and varied. One is the extension of a privileged status to the confidential communication of private information to a behavioral scientist. Another is the provision of civil or criminal remedies for the breach of the right of privacy.⁶⁵ A third is to assess and define the contexts in which, or the conditions under which, the cost in privacy is either marginal or *de minimis*, or permissible, because outweighed by the positive gains perceived for society in particular research. A fourth measure is to preclude public officials or employees from disclosing confidential information acquired in the course of employment.⁶⁶ A fifth approach is to develop "disciplinary proceedings" to enforce the claim to privacy against

65. Remedies for the breach of this right are already available in many states:

(a) See the list of states which recognize a common-law right of privacy in Prosser, *supra* note 14, at 386-89.

(b) Oregon and Maryland have statutes which make eavesdropping, without the consent of all persons being overheard, a crime. Neither accords any exemption for behavioral research. Thus, in Oregon, it is unlawful to obtain any part of a conversation by an eavesdropping device "if all participants in the conversation are not specifically informed that their conversation is being obtained." ORE. REV. STAT. § 165.540(1)(c) (1963). Violation of this Oregon statute is punishable by fine or imprisonment and renders the violator liable for damages in a civil suit. ORE. REV. STAT. §§ 30.780, 165.540(6) (1963). In Maryland it is unlawful to use any device "to overhear or record any part of the conversation or words spoken to or by any person in private conversation without the knowledge or consent, expressed or implied, of that other person." MD. ANN. CODE art. 27, § 125A(a) (Supp. 1964).

(c) See the statutes in five other states which make eavesdropping unlawful without the consent of a party to the conversation—again without an exemption for scientific research: CAL. PEN. CODE § 653j; ILL. ANN. STAT. ch. 38, §§ 14-2, 14-4 (Smith-Hurd 1964); MASS. GEN. LAWS ANN. ch. 272, § 99 (Supp. 1964); NEV. REV. STAT. § 200.650 (1957); N.Y. PEN. LAW § 738.

(d) See also the comparable but more limited statutes in six other states: ARK. STAT. ANN. § 41-1426 (1964) (loitering for purposes of invading privacy); GA. CODE ANN. § 26-2001 (1953) (peeping or similar acts tending to invade privacy); N.D. CENT. CODE § 12-42-05 (Supp. 1965) (using any mechanical or electronic device to overhear or record and to repeat with intent to vex or injure); OKLA. STAT. tit. 21, § 1202 (1941) (loitering with intent to overhear and repeat to vex or injure); S.C. CODE ANN. § 16-554 (1962) (peeping or similar acts tending to invade privacy); S.D. CODE, § 13.1425 (1939) (loitering with intent to overhear and repeat to vex or injure).

(e) See RESTATEMENT (SECOND), TORTS § 286 (1965), which reflects the judicial acceptance of such statutory standards as a basis for civil liability.

66. See, e.g., Antitrust Civil Process Act § 4(c), 76 Stat. 550 (1962), 15 U.S.C. § 1313(c) (1964); N.Y. EDUC. LAW § 1007; N.Y. LAB. LAW § 537; N.Y. PEN. LAW § 762; N.Y. PUB. OFFICERS LAW § 74(b).

public officials in some form of mandamus or contempt,⁶⁷ and against private professional persons through disbarment or loss of license. Still another possible supportive legal measure is to require registration for the possession of all privacy-invading devices.⁶⁸ The alternatives are clearly varied. It should be noted, however, that the existing legislative attempts to prohibit eavesdropping by use of devices have been uniformly defective. The current statutes are either inadequate in scope or indiscriminate in application, or both.

A precondition for the development of a proper balance between the values of privacy and those of behavioral research is the growth, among behavioral scientists themselves, of a heightened sense of their own confidential professional relationship with their informants. One of the best ways of articulating and developing this heightened sense of the confidential professional relationship is through the development and observance of codes of ethics in which the claim to privacy is recognized.

Codes of ethics for the several disciplines of scholarship and research are sound and sensible, and such codes should be general rather than specific, simple rather than complex. A workable code of ethics should be subject to expansion, interpretation, and application in specific cases according to the distinctive character of the research situation.

In accord with this view, seven principles are suggested for inclusion in a general code of ethics for behavioral research:

One: There should be a recognition, and an affirmation, of the claim to private personality.

Two: There should be a positive commitment to respect private personality in the conduct of research.

Three: To the fullest extent possible, without prejudicing the validity of the research, the informed, and voluntary, consent of the respondents should be obtained.

Four: If consent is impossible without invalidating the research, then before the research is undertaken, the responsible officials of the institutions financing, administering and sponsoring the research should be satisfied that the social good in the proposed research outweighs the social value of the claim to privacy under the specific conditions of the proposed invasion. These officials in turn are responsible, and must be responsive, to the views of the larger community in which science and research must work.

Five: The identification of the individual respondent should be divorced as fully and as effectively as possible from the data furnished. Anonymity of the respondent to a behavioral research study,

67. The Swedish Ombudsman suggests another interesting possibility. See *A State Statute to Create the Office of Ombudsman*, 2 HARV. J. LEGIS. 213 (1965).

68. Maryland, by House Bill 1197, approved by the Governor on April 8, 1965, added a new § 125D to Article 27 of its Annotated Code and thereby became the first state to require "every person possessing any eavesdropping and/or wiretapping device" to register such device with the State Police. Unless registered it is unlawful to manufacture or possess any such device. It will be interesting to see how vigorously and effectively this new statute is enforced. Will it be applied, for example, as it would seem was intended, to the manufacturers of tape recorders or dictaphones? Or to the lawyers or scientists who use them?

so far as possible, should be sought actively in the design and execution of the study as a fundamental characteristic of good research.

Six: The research data should be safeguarded in every feasible and reasonable way, and the identification of individual respondents with any portion of the data should be destroyed as soon as possible, consistent with the research objectives.

Seven: The research data obtained for one purpose should not thereafter be used for another without the consent of the individual involved or a clear and responsible assessment that the public interest in the newly proposed use of the data transcends any inherent privacy transgression.

Neither these seven suggested principles, nor any other set, will resolve, nor should be expected to resolve, the productive tension between the needs and advancement of science and the vibrant diversity of human personality. If it is correct, however, that there has been a growing imbalance in the relation of science and research to the values of privacy, then either the dignity, diversity and strength of the individual in our free democratic society will be diminished, or society will correct the balance. If the balance is to be corrected—as it will and must be—the lead should be taken by the scientific community through its own codes, its own attitudes, and its own behavior.

[From The Houston Post, June 12, 1965]

PRIVACY INVASION BRINGING UNITED STATES TO BRINK OF ORWELLIAN NIGHTMARE

There is at least one good test of any nation's freedom.

How strongly protected are its citizens' rights to personal privacy?

The question is complex, and leads, as do most good questions, to further questioning.

Can a man privately hold unpopular views without being investigated by one agency or another?

Can a man seek employment for himself without fear that his personal life will be subjected to a harrowing investigation?

Can a man step outside his house or use a telephone without fear that a listening device is taking down his every word?

Can a man be safe from snoopers who—if even for good, just, and impersonal reasons—want to know things about him?

Put it this way:

Is a man entitled in this time and in this place to keep his life to himself?

Privacy is no luxury graciously doled out by a generous government. It is a right that must be zealously protected.

The sad fact is, though, that our right to privacy is being subjected to a serious erosion.

The advance of technology is mostly to blame.

It is now a matter of ridiculous ease to intrude electronically into another's life. If you have the money and the inclination, you can easily buy a snooping device.

You can tap a telephone conversation, or you can listen in on what your neighbor is saying to his wife over there on the patio.

It is all so easy that outlawing snooping devices has become almost impossible. You can make them out of harmless components if that is what you want to do.

There are subtler dangers ahead.

Representative Cornelius Gallagher, Democrat, of New Jersey, whose House subcommittee has held public hearings into snooping, makes this cogent point:

"Advancements in electronics have given new weapons to snoopers of all kinds who feel they must have an intimate look at the innermost secrets of our people.

"Their motivations vary and may even be good, but dark dangers lurk in their conviction that they somehow have the absolute right to know these things.

"Now the magic of computers is helping them gather such a wealth of information from such a variety of sources that all of us may someday stand psychologically naked."

Such an incident popped up in the news last weekend.

It turns out that the Peace Corps has a personality test in which a number of questions require a true or false answer. A congressional committee wants to know the significance of a true or a false answer to such questions as:

"I think Lincoln was greater than Washington.

"I like to praise someone I admire.

"I like to be regarded as physically attractive by those of the opposite sex.

"I like to talk about my achievements.

"I like to listen to or tell jokes in which sex plays a major part."

A Peace Corps witness told the committee that there were no right or wrong answers but each question was part of the whole.

And yet, when the man who originally instituted the tests was asked to answer some of the questions, he replied:

"Now you are invading my privacy."

The whole idea has some amusing aspects when it concerns such exotic devices as a martini with a microphone embedded in the olive, but it is considerably more sinister when people are subjected to lie detector tests to probe their innermost secrets.

It is also questionable when a farm census questionnaire asks farmers to detail their outside income, including the amounts they receive from Social Security, the Veterans' Administration, dividends and interest, and other sources of income.

The Government does indeed need the power to inquire into cases that involve subversion, the national security, or crime, but this should be considered no invitation to snooping of the most casual kind.

Some way—perhaps a constitutional amendment—must be found to build a wall between the snoopers—whether governmental or private—and the citizen of the United States. And it is a matter of considerable urgency.

In the never-never land of snooping, we could stand on the brink of Orwellian nightmare.

[From the Evening Star, May 4, 1965]

TESTS TO THE TEST

Representative Cornelius E. Gallagher has performed a useful service by attacking the psychological tests still being used to pry into the private lives of Government workers and applicants.

The New Jersey Democrat reports that the Export-Import Bank and the State Department have both stopped using the questionnaires, but that one test still in use elsewhere has 300 statements calling for yes or no responses. Among the statements the person being tested is asked to confirm or deny are these:

"I feel very guilty about my sins."

"I am contented with my sex life."

"I sometimes think that I failed in love."

"I feel that my sexual instinct is as strong as my ambition."

These and other questions like them constitute "mental wire-tapping" in the view of Representative Gallagher. He gives as his personal most detestable query the one that asks the subject to agree or disagree with, "I find answering these questions to be a rather unpleasant task."

It is both an unpleasant task and one which our Government certainly should not inflict upon its employees, actual or potential.

Such prurient snooping has sometimes been defended on the grounds that the questions only serve to indicate a pattern of attitudes and are not actually used against the victim. Such a defense misses the point entirely. One would certainly hope the sheets are not used for blackmail or general terrorism. But even if they were thrown away unread, their use would be wrong. Americans should not have to submit to the "unpleasant task" at all.

The Congressman calls the testers "brain watchers" and he has thus put his finger on the undoubted ambition of many specialists in that line of work. Fascinating as it may be in a laboratory, the practice has no place in the U.S. Government.

[From the Wall Street Journal, Sept. 29, 1965]

PEEPING ON THE GRAND SCALE

Psychological testing, like testing for aptitudes, doubtless has its place and uses. But it is a question whether the wholesale peeping into people's minds that is going on in Government, industry, and schools is desirable, necessary or even effective.

Winding up a 3-month inquiry into such psychological and personality testing, a House Government Operations subcommittee heard pleas from a number of witnesses that Congress adopt curbs against the indiscriminate use of the quizzes. It is easy to see why.

The committee found, among other nauseous examples, that employees of the Bonneville Power Administration being considered for promotion were asked questions like "Which would you rather do: (a) kiss a person of the opposite sex, or (b) experiment with new things. Choose one."

It further learned that the Labor Department last year gave psychological tests to more than 20,000 applicants for counseling jobs in youth opportunity projects. The applicants were supposed to give their reactions to the following kinds of statement: "Most people worry too much about sex," and, "I think Lincoln was greater than Washington."

Moreover, thousands of schoolchildren, under research projects financed by the U.S. Office of Education, have undergone psychological testing in an attempt to probe their attitudes toward sex, religion, and family life.

Perhaps the most extraordinary thing about it all is the docility with which candidates for Government jobs, Federal employees, people in industry—where testing seems on the increase—and schoolchildren tolerate the intimate questioning. Especially with a tool still of dubious value.

One reason, perhaps, is that advanced by Dr. Karl Smith, professor of industrial psychology at the University of Wisconsin: "The American people have been fooled into believing that few simple-minded true-false or multiple choice ques-

tions can be used to forecast the careers of their children in school and in the university and to predict their own careers in work because of two influences: fear of the pseudoquantitative, mental-medical mumbo-jumbo of the psychiatrist and clinical psychologist, and the misleading propaganda of organized psychology in claiming that guesswork and statistical shotgun procedures have medical and scientific significance."

If that is true, maybe what's really needed to bridle the inquisitive testers is not a new law but simply the application of a little horsesense and elementary respect for privacy.

[From the Evening Star, July 1, 1965]

GALLAGHER STYMIES "BIG BROTHER"

(By James J. Kilpatrick)

Under the fourth amendment, as the country's police officials have been sharply reminded in recent years, the people are protected against unreasonable searches of their "persons, houses, papers, and effects." If Representative Cornelius Gallagher, Democrat, of New Jersey, has his way, the people will be protected also against unreasonable searches of their minds.

Gallagher is a 44-year-old lawyer from Bayonne, now serving his fourth term in the House. His voting record depicts him as a total liberal; in all the right-wing political indices, he rates a dead zero. But in his work as chairman of a special subcommittee on the invasion of privacy, he is defending a great conservative ideal—the protection of the individual from oppression by the state.

The astounding thing is that Gallagher already is getting results. Thanks to the persistence of his able subcommittee, and to the companion work of such Senators as Edward V. Long, Democrat, of Missouri, and Sam Ervin, Democrat, of North Carolina, thousands of Federal employees no longer will be subject to the degrading "personality tests" that have been used in the past to probe the private recesses of their minds. Big Brother will not be watching them quite so closely.

Gallagher is not concerned in his investigation with personnel tests intended to measure an applicant's knowledge of a field or his aptitude for a particular job. These he accepts as proper safeguards to the Federal service. His target is the "personality inventory," in which a Federal employee may be compelled to answer such true-or-false questions as, "I love my father. * * * I hate my father. * * * I would like to be a florist. * * * My sex life is satisfactory. * * * I believe there is just one true religion. * * *"

Last year the Department of Labor administered such a test to 21,000 applicants for positions as youth counselors in neighborhood centers under the poverty program. The prospects were given a list of 158 questions that had to be answered yes or no, "Usually I prefer to work with women. * * * I think Lincoln was greater than Washington. * * * I like poetry. * * * When a man is with a woman, he is usually thinking about things related to her sex. * * *"

The Peace Corps has been making extensive use of the Minnesota Multiphasic Personality Inventory, known professionally as MMPI, in which the subject answers 566 true or false statements. These then are scored against various scales computed by the answers of control-groups both sane and insane. Dozens of the questions deal with attitudes toward sex, religion, and bodily functions.

Until Gallagher began firing away, the Government had no consistent policy on the use of these tests. Some agencies used them wholesale, with no real security over the answer sheets. Others used them sparingly, as at Bonneville, with better safeguards. Others used them only in medical examinations where mental illness was suspected.

Now things are looking up. The Civil Service Commission has issued a "restatement" of policy—actually it is a new statement—prohibiting such tests as MMPI except under medical supervision. The Department of Labor has specifically abandoned its 1964 mind-searching. The Peace Corps has ordered that all personality answer sheets in its files be destroyed. The State Department will permit its people, in doubtful cases, to be examined by private psychiatrists rather than by Government doctors. In the future, Gallagher believes, it will not be nearly so easy for prying eyes to find out how a secretary-typist has answered so personal a question as "Do you worry much about sex?"

The Congressman's object is to make the practices of Federal agencies a model for private industry. It is estimated that about half of the country's major corporations routinely use such "personality inventories" in their personnel

programs. No employer, in Gallagher's view, public or private, is entitled to conduct such an invasion of privacy. If we are not to drift into the age of the "computerized man," which Gallagher abhors, great care must be taken to protect the first of all human rights—the right to be left alone.

[From the *American Psychologist*, vol. 19, No. 3, March 1964]

PSYCHOLOGY IN ACTION—MMPI: PROFESSIONAL USE BY PROFESSIONAL PEOPLE

(By Starke R. Hathaway, University of Minnesota Medical School)

This long letter was prompted by a courteous inquiry that I received. The inquiry referred to the use of the MMPI as an aid in the selection of policemen from among applicants. It was pointed out that there are laws against inquiry about religious affiliation and the specific issue was the presence in the MMPI of items relating to religion.

LETTER TO MR. R

First, I would like to express my appreciation of your reasonably expressed inquiry about the MMPI as possibly offensive in the statements that relate to religious activities and which might provide personal information on which discriminatory acts might be based. Because of sporadic public antagonism to psychological testing, and in view of our mutual concern for our civil liberties, I am going to answer you at considerable length and with unusual care. I shall send copies of this answer to the Psychological Corp. and to others who may be concerned. Let me assure you at the outset that I believe I am proceeding from a considered position rather than from a defensive attitude that could lead me to irrationally protect the MMPI, other such tests, or psychologists in general. I believe that I would be among the first to criticize some of the uses to which tests are put, and some of those who use them improperly. I must also immediately make it clear that I am antagonistic to ignorant attacks upon tests. Tests are not offensive elements; the offensive elements, if any, come with the misuse of tests. To attack tests is, to a certain extent, comparable to an attack upon knives. Both good and bad use of knives occurs because they are sharp instruments. To eliminate knives would, of course, have a limiting effect upon the occurrence of certain hostile acts, but it would also greatly limit the activities of surgeons. I simply discriminate between the instrument and the objectives and applications of the persons who wield it. I am calling attention to the difference between a switchblade knife, which is good for nothing but attack, and a scalpel knife, good for healing purposes but which can also be used as a weapon. I hope that no one will think that any test was devised in the same spirit that switchblade knives were devised. It is absurd if someone holds the belief that psychologists malignantly developed instruments such as the MMPI for use against the welfare of man, including, of course, man's personal liberties and rights. But if the MMPI and such tests have origins analogous to the scalpel, and are really perversely used to man's disadvantage, we are properly concerned. Let me turn to a history of the MMPI items about which you have inquired.

I should begin with an account of the origin of the MMPI itself. I believe I am competent to do this, and I hope you will see that its origins were motivated toward virtue as I have suggested above. In about 1937, J. C. McKinley, then head of the Department of Neuropsychiatry of the Medical School at the University of Minnesota, supported me in a venture which grew out of a current problem in our psychopathic hospital. The problem lay in the fact that insulin therapy as a treatment method for certain forms of mental disease had just become a widespread method of treatment. Different clinics were finding highly varied values. Some reported the treatment to be exceedingly effective; others said it was ineffective. The treatment was somewhat dangerous to patients, and it was exceedingly expensive in terms of hospitalization and nursing care. McKinley happened to be one of the neuropsychiatrists of the time who felt that more careful investigation should be undertaken before such treatments were applied, and in particular before we used them on our patients.

It occurred to us that the difficulty in evaluation of insulin treatment lay largely in the fact that there was no good way to be assured that the patients treated by this method in one clinic were like those treated in another clinic. This was due to the fact that the estimations of the nature of a person's mental illness and of its severity were based upon professional judgment, and could vary

with the training background of the particular psychiatrist as well as with his personal experiences. Obviously, if the patients treated at one center were not like those treated at another center, the outcome of treatment might be different. At that time there was no psychological test available that would have helped to remove the diagnostic decisions of the patients in two clinics from the personal biases of the local staffs. There was no way that our hospital staff could select a group of patients for the new treatment who would be surely comparable in diagnosis and severity of illness to those from some other setting. It became an obvious possibility that one might devise a personality test which, like intelligence tests, would somewhat stabilize the identification of the illness and provide an estimate of its severity. Toward this problem the MMPI research was initiated.

I have established that decisions about this kind and severity of mental illness depend upon the psychological examinations of the psychiatrists and other professional persons. The items upon which the judgments are based constitute the symptoms of mental maladjustment or illness. Such symptoms have for many, many years been listed in the textbooks of psychiatry and clinical psychology that treat with mental disorder. These symptoms are verbal statements from or about the patient. The simplest and most obvious form of these symptoms are statements that confess feelings of unhappiness, depression, and the like. The statements may also be less personal, as in complaints about one's lot in life and about the inability to find employment or the mistreatment by others.

In summary, the symptoms of mental illness and unhappiness are represented in verbal complaints or statements that relate to personal feelings or personal experiences or reactions to job and home. It should be immediately apparent that unlike most physical illnesses, these verbally presented complaints or symptoms usually do not permit direct observation by others. If a patient reports a painful nodule or abdominal pain, the reported pain can usually be observed by some physical or nonverbal means that lends credence to the complaint. Many symptoms of mental illness are contrastingly difficult to observe by nonverbal means. It is almost impossible to establish that the person presenting the symptom is actually suffering from a distortion of his psychologically healthy mental state by some psychological complex. There is much arbitrariness even in the statement, "I am unhappy." Frequently no physical observation can be brought to bear upon the statement. The complainant may look unhappy and may even add that he is suicidal, yet friends and the examiner can agree that he is, "just asking for sympathy, is no worse off than the average." There is no way of solidly deciding what the words really mean. This point is crucial to what I am writing. If it is not clear at this point, reference books on semantics should be consulted. S. I. Hayakawa would be a good source.

I know of no method which will permit us to absolutely assess unhappiness or mental illness, either as to kind or severity, unless we start from inescapable symptoms that are verbally expressed and subject to the vagaries in the personal connotations of words and phrases. In initiating the research upon what was to produce the MMPI, we collected as many as we could find of the symptomatic statements recognized by authorities as indicative of unhappiness and mental illness. There were hundreds of these statements. We had at one time well over a thousand of them. Every one of these symptomatic statements had already been written into the literature or had been used as a practical bit of clinical evidence in the attempt to understand patients. I repeat this because I want to thoroughly emphasize that every item in the MMPI came from assumed relationships to the assessment of human beings for better diagnosis and treatment of possible mental illness.

Now with all this preamble I am prepared to discuss the particular items that you have highlighted in your letter. It happens that, among the many items

collected and finally selected to make up the MMPI, there were at least 19 relating to religion in one way or another:

	Male		Female	
	True	No answer	True	No answer
I am very religious (more than most people)	8	9	11	9
Religion gives me no worry	83	4	70	4
I go to church almost every week	42	3	52	4
I pray several times every week	50	3	83	2
I read in the Bible several times a week	21	5	30	3
I feel sure that there is only one true religion	49	8	51	11
I have no patience with people who believe there is only one true religion	56	4	47	10
I believe there is a God	92	5	96	2
I believe there is a devil and a hell in afterlife	63	14	67	14
I believe in a life hereafter	76	12	87	7
I believe in the second coming of Christ	57	18	68	12
Christ performed miracles such as changing water into wine	69	16	77	15
The only miracles I know of are simply tricks that people play on one another	37	10	27	14
A minister can cure disease by praying and putting his hand on your head	4	10	5	11
Everything is turning out just like the prophets of the Bible said it would	52	29	54	32
My soul sometimes leaves my body	8	18	5	12
I am a special agent of God	14	13	16	21
I have had some very unusual religious experiences	20	5	13	2
I have been inspired to a program of life based on duty which I have since carefully followed	42	14	50	15

I have listed these items to remind you again of the ones you cited, and I have added others that may further illustrate what I am saying. Now you have asked why we included these statements on religion among the possible symptoms of psychological maladjustment. Why should these items still appear in the MMPI?

In the first instance, the subject matter evidenced in the symptoms of depressed or otherwise mentally disturbed persons often largely centers in religion. There is a well-recognized pattern of psychological distortion to which we apply the term religiosity. When we use the word "religiosity," we indicate a symptomatic pattern wherein the process of an intercurrent psychological maladjustment is evidenced by extremes of religious expression that are out of the usual context for even the deeply religious person. A bishop friend of mine once illustrated the problem he sometimes had in this connection by his account of a parishioner who had routinely given a tithe as his offering toward support of the church, but who, within a few weeks, had increased the amount he gave until it was necessary for him to embezzle money for his weekly offering. Surely, my friend said, there is more here than ordinary devotion; there is something which should be considered from another frame of reference. In this anecdote there is an element of the symptomatic pattern, religiosity. But, as is true of nearly every other aspect of human personality to which the MMPI refers, no one item will ordinarily establish this distortion of the ordinarily meaningful position of religion. And no one item can be used to detect the problem as it occurs in various persons. Two persons rarely express even their usual religious feelings in identical ways.

It never occurred to us in selecting these items for the MMPI that we were asking anything relative to the particular religion of our patients. It obviously did not occur to us that there were other than the Christian orientation wherein religiosity might be observed. Because of this oversight on our part, several of our MMPI symptoms that we assumed were indicative of religiosity happen to be obviously related to the Christian religion, although we find that most persons simply translate to their own orientation if it is different. I should hasten to add that although these symptoms were hoped to be specific to persons who suffer from religiosity, they have not all turned out that way. Not every aspect of religion is at times a symptom of mental illness. Certainly it is obvious that there is nothing symptomatic in admitting to one's personal acceptance or rejection of several of the items. The point at which a group of items becomes consistent in suggesting symptoms is subtle to distinguish. As my bishop friend's story illustrated, it is not unusual that one contributes to religious work

even though there exists a doubtful extreme. As I will show below, all these items are endorsed or rejected by some ordinary, normal people. If any of the items have value toward clinical assessments, the value comes in combination with other items which probably will not seem to relate to religion.

The MMPI, which started out so small and inconspicuously, has become a world-known and world-used instrument. We did not expect this outcome. If I were to select new items, I would again include items that related to religiosity. I would this time, of course, try to avoid the implication that the religiosity occurred only among adherents to the Christian faith. I am obviously unhappy about the limited applicability of these items, but I am, in the same sense, unhappy about other items in the MMPI. A considerable number of the items have been challenged by other groups from other standpoints. By this I mean only to remind those concerned about these religiosity items that there are frankly stated items on sex, there are items on body functions, there are items on certain occupations; in fact, there are items on most every aspect of psychological life that can be symptomatic of maladjustment and unhappiness. If the psychologist cannot use these personal items to aid in the assessment of people, he suffers as did the Victorian physician who had to examine his female patients by feeling the pulse in the delicate hand thrust from behind a screen. I shall come back to this point later, but it is obvious that if we were making a new MMPI, we would again be faced either with being offensive to subgroupings of people by personal items they object to or, if we did not include personal items and were inoffensive we would have lost the aim of the instrument.

One may protest that the MMPI is intended for the patient, the mentally ill person, not applicants to schools, high school children, or to those being considered for jobs. I cannot give a general defense of every such use, but this is a time when preventive health is being emphasized. We urged everyone to get chest X-rays and to take immunizing shots. We are now beginning to advocate general surveys with such psychological instruments as the MMPI. The basic justification is the same. We hope to identify potential mental breakdown or delinquency in the school child before he must be dragged before us by desperate parents or by other authority. We hope to hire police, who are given great power over us, with assurance that those we put on the rolls should have good personal qualities for the job. This is not merely to protect us, this also is preventive mental health, since modern job stability can trap unwary workers into placements that leave them increasingly unhappy and otherwise maladjusted. If the personality of an applicant is not appropriate to the job, neither employer nor applicant should go ahead. We have always recognizes the employer's use of this principle in his right to personal interview with applicants. Since the items and responses are on record, the MMPI and such devices could be considered to be a more fair method of estimation than the personal interview, and, when they are machine scored, they make possible much greater protection from arbitrary personal judgments and the open ended questions that are standard for personal interviews.

It seems to me that the MMPI examination can be rather comparable to the physical examination for selection of persons. One would not wish to hire a person with a bad heart when the job required behavior that was dangerous to him. I think it would be equally bad to hire a person as a policeman whose psychological traits were inappropriate and then expect him to do dangerous things or shoot to kill as a policeman is expected to do. There is, from physical and psychological examinations, a protection to the person being hired as well as to those hiring him. This is not meant as an argument for the use of the MMPI in every placement that requires special skills or special personality traits. I am arguing a general point.

I would next like to take up MMPI items to bring out a new line of evidence which, I am sorry to say, is not familiar to some psychologists, but which is of importance in giving you an answer to your questions. Turn again to the above items, particularly to the "True" response frequencies. We will look at implications about the people taking the MMPI as we interpret the "True" frequencies of response for these items.

Before we do so, we should consider the source of the frequency figures. The males and females who provided these standard data, which are the basis for all MMPI standards, were persons who came to the university hospitals bringing patients or who were around the hospitals at the time when we were collecting data. Only those were tested who were not under a doctor's care and who could be reasonably assumed to be normal in mind and body. These persons, whom we call the normal adult cross section group, came from all over Minnesota, from

every socioeconomic and educational level; there is reason to believe that they are a proper representation of the rank and file people of Minnesota. It is probably well known that, in the main, Minnesota population was drawn from north European stock, is largely Christian in background, and has a rather small number in the several minority groups. Certainly, it can hardly be said that this population is unduly weighted with extremists in the direction of overemphasis upon religion or in atheism or in other belief characteristics. Probably one would expect this population to be rather more religious than the average for all the States. Finally, the majority of the persons who provided these basic norms were married persons and most were parents. Data given in the table can be found in the fundamental book on the MMPI, "An MMPI Handbook," by Dahlstrom and Welsh (1960).

But now consider the items. Let us assume, as is often naively assumed, that when one answers an item one tells the truth about oneself. Of course, there is no requirement that those who take the MMPI should tell the truth, and this is a very important point. Also, I have tried to establish that truth is a very complicated semantic concept. But let us assume for the moment that people do tell the truth as they see it. Take the item, "I go to church almost every week." According to the data given, 42 percent of the men and 52 percent of the women go to church almost every week. Now these data are representative of the whole State. I am sure that ministers of the State would be gratified if all these people were reporting accurately. Parenthetically, I suppose that "church" was read as "synagogue" or "temple" without much trouble. But I do not know what percentage of people are actually estimated to go to some church almost every week. At any rate I cannot conceive that 42 percent of the men of the State of Minnesota are in church nearly every week even if 52 percent of the women are. I even cannot conceive that half of the men in Minnesota and 83 percent of the women actually pray several times a week. I might imagine that 21 percent of the men and 30 percent of the women would read in the Bible several times a week. This would represent about one-fifth of all the men and about one-third of all the women. My real impression is that people simply do not know that much about the Bible. However, take the next item. Here it says that one feels sure there is only one true religion. To this about half of the men and half of the women answered true. Perhaps these might be considered bigoted, but what of the ones who have obviously answered false? There seems to be a great deal of religious tolerance here; about half of the persons of Minnesota do not even express a belief that there is only one true religion.

It is true that a high percentage say they believe there is a God. This seems to be a noncommittal item, since most people are aware that God has many meanings. The item which follows it, however, which permits denying or accepting a belief in a devil and hell in afterlife, is quite interesting. Twenty-three percent of men and 19 percent of women reject this belief. By contrast, a life hereafter is denied by 24 percent of men and by 13 percent of women. The second coming of Christ is expected by only 57 percent of men and 68 percent of women if we accept what these figures seem to say. Again, with reversal, Christ as a miracle worker is doubted by 31 percent of men and by 23 percent of women. Stated more directly, 37 percent of men and 27 percent of women come straight out and say that miracles were not performed. The item apparently includes Old and New Testament sources among others. On down in the list, one finds that only 14 percent of men and 16 percent of women believe themselves to be special agents of God.

I think I have gone over enough of these items to provide a suggestion of what I am going to next point out. But I would like to add two more MMPI items in sharper illustration of the point. These two additional items have nothing obvious to do with religion. The first of them is, "I almost never dream," and the second is, "I dream frequently." One of the first things we found in the early studies of MMPI items was that the same person frequently answered "True" to both these items. When asked about the seeming contradiction, such a person would respond, among other possibilities, by saying to the first item that surely he had very few dreams. But, coming to the next item, he changed his viewpoint to say that he dreamed frequently as compared to some of the people he knew. This shift of emphasis led us to recognize that, in addition to the general semantic problem developed above, when people respond to items, they also do not usually respond with the connotations we expect. Apparently, even if the people are telling a truth of some kind, one would need an interview with them to know what they really intend to report by answering "True" or "False." I suppose this is similar to the problem of the oath of allegiance over

which some people are so concerned. One may state that he is loyal to the United States, for example, yet really mean that he is deeply convinced that its Government should be overthrown and that, with great loyalty to his country, he believes revolution to be the only salvation for the country. However much we might object to it, this belief would permit a person to swear to his loyalty in complete honesty. I think most everyone is aware of this problem about oaths, and it is a routine one with MMPI item responses.

In summary of all this, if one wished to persecute those who by their answers to these items seemed inconsistent with some religious or atheistic pattern of beliefs, there would be an embarrassingly large number of ordinary people in Minnesota who would be open to suspicion both ways. In reality, the responses made to these items have many variations in truth and meaning. And it would betray considerable ignorance of the practical psychology of communication if any absolute reliance were placed on responses.

As a final but most significant point relative to these items, I should point out that administration of the MMPI requires that those who are taking the test be clearly informed that they may omit any item they do not wish to answer for whatever purpose. I have never seen any studies that have drawn conclusions from the omission of particular items by a particular person. We found that items among these that are being considered were unusually frequently omitted. You may notice this in the "No answer" columns. One-third of all the respondents failed to answer the item relative to the Bible and the prophets, for example. This is a basic fact about the MMPI and such tests, and I cannot see why this freedom will not permit to each person the latitude to preserve his privacy if he is afraid. Still again I would add that, in many settings, possibly nearly every setting, where the MMPI is used in group administration, those who take it are permitted to refuse the whole test. I admit that this might seem prejudicial, and I suspect that if any one chooses to protect himself, he will do it by omitting items rather than by not taking the test at all. Is refusal to take the test any different from refusing to subject oneself to an employment or admission interview by a skilled interviewer? I think that some people who have been writing about the dangers of testing must have an almost magical belief in tests. Sometimes, when I feel so at a loss in attempting to help someone with a psychological problem, I wish that personality tests were really that subtle and powerful.

Groups of items called scales, formed into patterns called profiles, are the useful product of tests like the MMPI. I note that in your inquiry you show an awareness that the MMPI is usually scored by computers. The scales that are used for most interpretation include 10 "clinical" scales. These are the ones that carry most of the information. Several other scales indicate whether the subject understood and followed the directions. No one of these main scales has less than 30 items in it and most of them have many more than 30. The scores from the machine come back not only anonymously indicating the number of items answered in a way that counts on the scale, but the scores are usually already transformed into what we call T or standard scores. These T scores are still more remote from the particular items that make up a scale. The graphic array of T scores for the scales are finally printed into the profile.

In this connection, there is a very pretty possibility offered by the development of computer scoring. If we wish to take advantage of the presumed advantages of the use of tests, yet be assured that particular item responses shall not be considered, then we only need to be assured that those using the test do not score it, must send it straightway to the computer center, and, in the end, receive back only the profiles which are all that should be used in any case. The original test may be destroyed.

The scales of the profile were not arbitrarily set up. The MMPI is an experimentally derived instrument. If an item counts on a scale, I want to make it very clear that that item counts not because some clinician or somebody thought that the item was significant for measuring something about human personality, but it counts because in the final analysis well-diagnosed groups of maladjusted, sometimes mentally ill persons answered the item with an average frequency differing from the average frequency of the normative group that I have used for the above illustrative data. This is an exceedingly significant point and is probably least often understood by those who have not had psychometric training. No one read or composed these items to decide what it meant if one of them were answered "True" or "False." The meanings of the items came from the fact that persons with a certain kind of difficulty answered in an average way different from the "normal" standard. For example, the item "I go to church almost every week"

is counted on a scale for estimating the amount of depression. We did not just decide that going to church was related to depression. We had the response frequencies from men who complained that they were depressed. They answered "True" with a frequency of only 20 percent. You will note that the normals answered "True" with a frequency of 42 percent—22 percent more often. Now this difference also turned up for women who were depressed. We adopted a "False" response to this item as a count on the depression scale of the MMPI. We do not even now know why depressed people say they go to church less often. Note that you are not depressed if you say "False" to this one item. Actually, 55 percent of the normals answered "False." Use of the item for an MMPI scale depended on the fact that even more of the depressed persons answered "False" and so if you say "False" you have added one item more in common with depressed people than with the normals despite the fact that more than half the normals answered as you did.

Even psychologists very familiar with the MMPI cannot tell to which scale or scales an item belongs without looking it up. People often ask for a copy of a test so they can cite their objections to items they think objectionable, and they assume that the meaning of the item is obvious and that they can tell how it is interpreted. I am often asked what specified items mean. I do not know because the scoring of the scales has become so abstracted that I have no contact with items.

One more point along this line. Only 6 of the above 19 items are counted on one of the regular scales that are mostly used for personality evaluation. Four more are used on a measure that is only interpreted in estimation of the ability of the subject to follow directions and to read well enough. In fact, about 200 of the whole set of items did not end up on any one of the regularly used scales. But, of course, many of these 200 other items occur on one or another of the many experimental MMPI scales that have been published.

We cannot change or leave out any items or we lose an invaluable heritage of research in mental health. To change even a comma in an item may change its meaning. I would change the words of some items, omit some, and add new ones if I could. A new test should be devised, but its cost would be on the order of \$100,000 and we are not at this time advanced enough so that the new one would be enough better to compensate for the loss of the research and diagnostic value of the present MMPI even in view of its manifest weaknesses.

The subject of professional training brings me to my next line of response. It is appropriate that the public should be aware of the uses of such tests as the MMPI, but I have repeatedly pointed out that it is far more important that the public should be aware of the persons who are using the test and of the uses to which it is put. In this context, the distributor of the MMPI, the Psychological Corp. of New York City, accepts and practices the ethical principles for test distributors that have been promulgated by the American Psychological Association. These rules prohibit the sale of tests to untrained or incompetent persons. Use or possession of the MMPI by others is prohibited but, since this carries no present penalty, the distributor is helpless except for his control of the supply. Tests, as I have said above, are not like switchblade knives, designed to be used against people; they offer potential contributions to happiness. And I cannot believe that a properly accredited clinical psychologist or psychiatrist or physician who may use the MMPI would under any circumstances use it to the disadvantage of the persons being tested. If he does so, he is subject to the intraprofessional ethical-practice controls that are explicit and carry sanctions against those of us who transgress. The MMPI provides data which, like certain medical data, are considered by many to be helpful in guidance and analysis and understanding of people. Of course, in the making of this point, I am aware that their is no absolute meaning to what is ethical. What one group may think should be done about a certain medical examination disclosure may be considered by another group to be against the patient's interest. I cannot do more than extend this ubiquitous ethical dilemma to the use of the personality test.

The essential point is that such tests should not be used except in professional circles by professional people and that the data it provides should be held confidential and be protected within the lawful practice of ethics. When these requirements are not met, there is reason for complaint. I hope I have made it clear that it is also my conviction that the MMPI will hurt no one, adult or child, in the taking of it. Without defending all uses of it, I surely defend it, and instruments like it, when they are in proper hands and for proper purposes. Monachesi and I have tested 15,000 ninth-grade school children with the MMPI. This took us into public schools all over the State, even into some parochial schools. In all of this testing, we had no difficulties with children, parents, or teachers except for a few courteous inquiries. We are now publishing what we hope will

be significant data from this work, data bearing on delinquency and school dropout. We believe that this work demonstrates that properly administered, properly explained, and properly protected tests are acceptable to the public.

At the beginning of this statement I warned that I was going to make it quite long because I felt deeply on the matter. I hope I have not sounded as though I were merely being defensive, protecting us from those who would burn tests and who for good reasons are exceedingly sensitive about psychological testing. I am apologetic if I have sounded too much like the professional scientist and have seemed to talk down to the issue or to be too minutely explicit. I have not meant to insult by being unduly simple, but I have felt that I had to expand adequately on the points. As for psychologists who are those most widely applying such tests, I am aware that the public will look with increasing seriousness upon those who are entrusted with problems of mental health and the assessment of human actions.

I will end with a repetition of my feeling that, while it is desirable for the public to require ethical practices of those using tests, the public may be reassured that the psychologists, physicians, and others who use these new tests will be even more alert to apply the intraprofessional controls that are a requisite to professional responsibility. But I must emphasize that it is not to public advantage to so limit these professional judgments that we fail to progress in mental-health research and applications from lack of freedom to use the best instruments we have and to develop better ones.

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WHY HOUSE HEARINGS ON INVASION OF PRIVACY

(By Representative Cornelius E. Gallagher, Democrat of New Jersey,
Chairman, special inquiry, House Government Operations Committee)

Representative Cornelius E. Gallagher, Democrat of New Jersey, holds an LL.B. cum laude, from John Marshall College of Law, and did his postgraduate work at New York University. Governmental invasion of privacy has been a special interest of his for many years. Representative Gallagher proposed the study which resulted in Congressional investigation of polygraphs 2 years ago (House Government Operations Committee Report 198, *Use of Polygraphs as "Lie Detectors"* by the Federal Government, based on 1964 hearings of Foreign Operations and Government Information Subcommittee of the House Government Operations Committee—chairman, John E. Moss, Democrat of California).

Gallagher was the floor manager for the original passage of the law which created the Peace Corps, a bill originated by Representative Henry S. Reuss, Democrat of Wisconsin. Thus both Representative Reuss and Representative Gallagher have some familiarity with the Peace Corps and its selection procedures. Reuss was asked to serve on the Special Inquiry Subcommittee investigating invasion of privacy, and sharp questions from him will be found in the section of this *American Psychologist* which deals with House testimony.

The American people would rise in great protest if the Government of the United States conducted a physical search of the homes of public employees as a condition of employment. I am sure they also would protest if the persons, or mail, or other personal effects of Federal workers were searched without a proper warrant issued by a judge. I do not think anyone would argue that we might find a lot of undesirables working for the Government if such steps were taken. Yet the Federal Government has been engaged in a much more insidious type of search than going through someone's home, mail, or personal papers. It has been searching the minds of Federal employees and job applicants through personality testing. The objective has been a laudable one—to protect the Federal service from misfits—but the means, in my view, violates the 4th amendment to the Constitution and perhaps the 1st, 5th, 9th, and 14th amendments as well, depending on the facts in each case. Federal employees and job applicants have been compelled to take these tests under Government direction, or lose positions, promotions, assignments, not only then but also in the future. There is little or

no effective appeal procedure for our citizens who wish to challenge personality testing as an invasion of privacy, or contest interpretations of the findings in the event they do take the tests.

Remember there was nothing voluntary about these tests when the Special Inquiry of the House Government Operations Committee started its investigation. Persons could not select their own private psychologists and doctors to conduct and evaluate the tests. Government employees and job applicants are far from the cooperative subjects that even the test publishers admit are necessary to make the test results of any real value. They often resent the questions and admit quite freely that their answers were those they thought would get them the job or promotion. They even recognized the purpose of many of the questions on the so-called lie scale. Those who were obvious misfits probably would have been picked up through interviews and suitability checking anyway. Those who gave scrupulously honest answers opened themselves up to all sorts of things. The eccentrics, for example, who often can bring great creativity and drive to their work, were eliminated, I fear, because they raised doubts in the minds of personnel officers. Frankly, it disturbs me when we strive so hard to select persons within set patterns and exclude those who do not fall into those patterns, especially when the reliability and validity of the patterns are an unsettled controversy in themselves.

It used to be that whenever a person took an action, he knew that others might observe it and reach their own conclusions. But when he is forced to reveal his thoughts against his will, he has surrendered his conscience in a very real sense. At that point, man is being judged not by his actions or record, but by his thoughts as interpreted by someone else using fallible instruments of measurement.

It is true that many of the questions contained on personality questionnaires are innocuous. But it is equally true that many of them are not. Numerous questions inquire not only into very intimate sex matters, but family situations, religious views, childhood happenings, and other matters normally the business of no one other than the individual concerned and those persons with whom he may decide to share a confidence. In a free society, it is the individual who should make that decision, not the Government.

I am not saying these tests are without merit. I am sure that in some cases the tests are a useful tool in psychiatric evaluation when they are used in a clinical situation where there is a doctor-patient relationship. This is where they should be used—strictly in a medical determination. What bothers me is that personnel people often are interpreting these tests, and the answers are reposing in some Government file somewhere, all set to follow the person throughout his career or noncareer.

I am often told that personality testers are not interested in the answers to individual questions. This may be true too. But the fact remains that the person taking the test must give a written answer to a specific question. What happens if that answer is ever used for another purpose? Would it in any way harm of incriminate the person? I believe any reasonable man would have to accept my contention that the answers to many of the questions could be used in an adverse manner. So-called confidential files do not solve this problem. Our investigations show that the confidentiality of Government files is a myth. Such files sometimes float from agency to agency. Federal investigators in some instances are given access to information far removed from the subject of their inquiry. Folders sit open for inspection on desks and in the "In" and "Out" baskets of Government agency offices. Outright "leaks" of information occasionally come to light. If a person has been improperly evaluated, the notations in such files haunt him for the rest of his life. On some forms, he must state whether he has ever taken a psychological test. Why? The answer is obvious. One must also understand that whenever doubts are raised in relation to a Federal employee or job applicant, they are resolved in most cases against the employee or applicant. Unfortunately, that is the nature of the thing. Some would say it is only human. So the Government must exercise extraordinary caution when it does anything to raise such doubts.

I often hear the argument that national security and the good of the public service demand the use of such practices as personality testing and polygraph examinations. But when I ask the top officials of Government agencies, their assistants, and the assistants to the assistants, whether they were ever required to take such tests, the answer is always, "No." These are the people who make the great decisions which chart the course of the Nation, and, in some cases, the world. These are the people who have access to the most hush-hush secrets.

They do not take the tests. It is their minor officials, secretaries, clerks, and janitors who take the tests. There is an assumption that the top level of Federal bureaucracy is made up of stable and competent people based on their past records, and this judgment stands until it is proven otherwise by their actions. I would suggest that we make the same assumption about the dedicated men and women who make up the rank and file of our public service. Sure, a few psychological misfits may slip through, just as they do in the top echelons. But at least the Federal Government will have guarded a sacred right guaranteed to public employees, as well as to all Americans—the right to be let alone.

